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105TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–634

BORDER SMOG REDUCTION ACT OF 1998

JULY 20, 1998.—Committed to the Committee of the White House on the State of the Union and ordered to be printed

Mr. BLILEY , from the Committee on Commerce, submitted the following

REPORT

[To accompany H.R. 8]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 8) to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicle emissions, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

59–006

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Smog Reduction Act of 1998".

SEC. 2. AMENDMENT OF CLEAN AIR ACT.

Section 183 of the Clean Air Act (42 U.S.C. 7511b) is amended by adding the following new subsection at the end:

"(h) VEHICLES ENTERING OZONE NONATTAINMENT AREAS.—

"(1) AUTHORITY REGARDING OZONE INSPECTION AND MAINTENANCE TESTING.—No noncommercial motor vehicle registered in a foreign country and operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a valid visa for purposes of employment or educational study in the United States, may enter a serious, severe, or extreme ozone nonattainment area from a foreign country bordering the United States and contiguous to such nonattainment area more than twice in a single 12-month period, if State law has requirements for the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area. The preceding sentence shall not apply if the operator presents documentation at the United States border entry point establishing that the vehicle has complied with such requirements that are in effect and are applicable to motor vehicles of the same type and model year.

"(2) SANCTIONS FOR VIOLATIONS.—The President of the United States may impose and collect from the operator of any motor vehicle who violates, or attempts to violate, paragraph (1) a civil penalty of not more than $200, except that in any case of repeated violations or attempted violations such penalty may not exceed $400.

"(3) STATE ELECTION.—The prohibition set forth in paragraph (1) shall not apply in any State which elects to be exempt from the prohibition. Such election shall take effect upon the President's receipt of written notice from the Governor of the State notifying the President of such election.

"(4) STATE ELECTION FOR OTHER NONATTAINMENT AREAS.—

"(A) IN GENERAL.—In the case of a State that is contiguous with a foreign country and that contains an ozone nonattainment area (other than an ozone nonattainment area to which paragraph (1) applies), such State may elect for the prohibition described in such paragraph to apply in the State, or may elect to establish in accordance with subparagraph (B) an alternative approach to facilitate the compliance, by motor vehicles registered in foreign countries and entering such nonattainment area, with the motor vehicle inspection and maintenance requirements in effect under the applicable implementation plan in the nonattainment area and applicable to motor vehicles of the same type and model year.

"(B) ALTERNATIVE APPROACH.—An alternative approach by a State under subparagraph (A) is established in accordance with this subparagraph if the Governor of the State submits to the President a written description of such approach and the President approves the approach as facilitating compliance for purposes of such subparagraph.

"(C) EFFECTIVE DATE REGARDING STATE ELECTION.—If a State makes an election under subparagraph (A) for an alternative approach, the alternative approach takes effect in the State one year after the date on which the President approves the approach. If the State makes the other election under such subparagraph, the prohibition described in paragraph (1) takes effect in the State 180 days after the President's receipt of written notice from the Governor of the State notifying the President of such election.

"(5) ALTERNATIVE APPROACH REGARDING SERIOUS, SEVERE, AND EXTREME AREAS.—In the case of a State containing an ozone nonattainment area to which paragraph (1) applies, paragraph (4) applies to the State to the same extent and in the same manner as such paragraph applies to States described in such paragraph, subject to paragraph (3).

"(6) DEFINITION.—For purposes of this section, a serious, severe, or extreme ozone nonattainment area is a Serious Area, a Severe Area, or an Extreme Area as classified under section 181, respectively, other than any such area first classified under such section after the date of the enactment of the Border Smog Reduction Act of 1998.".

SEC. 3. GENERAL PROVISIONS.

(a) IN GENERAL.—The amendment made by section 2 takes effect 180 days after the date of the enactment of this Act. Nothing in such amendment shall be construed to require action that is inconsistent with the obligations of the United States under any international agreement.

(b) INFORMATION.—As promptly as practicable following the enactment of this Act, the appropriate agency of the United States shall distribute information to publicize the prohibition set forth in the amendment made by section 2 and its effective date.

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the impact of the amendment made by this Act, as described in subsection (b).

(b) CONTENTS OF STUDY.—The study under subsection (a) shall compare the potential impact of the amendment made by this Act on air quality in ozone nonattainment areas affected by such amendment with the impact on air quality in the same areas caused by the increase in vehicles engaged in commerce operating in the United States and registered in, or operated from, Mexico, as a result of the implementation of the North American Free Trade Agreement.

(c) REPORT.—Not later than July 1, 1999, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, a report describing the findings of the study under subsection (a).

PURPOSE AND SUMMARY

The purpose of H.R. 8, the Border Smog Reduction Act of 1998, is to provide States located on the border of the United States and a foreign country with mechanisms to provide for the compliance of foreign-registered motor vehicles with State inspection and maintenance requirements that are applicable in ozone nonattainment areas located in such States. Under the provisions of the bill, a State may provide for the denial of entry into the United States of certain foreign-registered noncommercial motor vehicles where State law applicable to such nonattainment areas provides that such vehicles comply with inspection and maintenance requirements and such vehicles attempt to enter the State from a foreign country more than twice in one year without complying with applicable inspection and maintenance requirements. Operators of such vehicles may also be subject to fines for violations and repeated violations.

The bill also provides that States located on the border of the United States that contain an ozone nonattainment area may establish alternative approaches to facilitate compliance with motor vehicle inspection and maintenance requirements. Such an alternative approach may be of the State's own design and include measures other than denial of entry of vehicles into the United States. All alternative approaches, however, are subject to approval by the President.

BACKGROUND AND NEED FOR LEGISLATION

General background

Under the Clean Air Act, areas that do not comply with a National Ambient Air Quality Standard (NAAQS) are required to be designated as "nonattainment." For such areas, States are required to develop State Implementation Plans (SIPs) which provide for the implementation, maintenance, and enforcement of a NAAQS. These SIPs include enforceable emission limitations and other control

measures aimed towards attaining compliance with the NAAQS within the time frames specified in the Clean Air Act.

Ozone is one of the six criteria pollutants for which a NAAQS have been established. Ozone is formed in the atmosphere by the chemical interaction of volatile organics (VOCs) and nitrous oxides (NO_x). There are many separate sources of both VOCs and NOx; however, motor vehicles represent a major source of both pollutants and, in some areas, may be the largest single contributor to ozone formation.

Section 181 of the Clean Air Act provides for the classification of ozone nonattainment areas as "marginal", "moderate", "serious", "severe", and "extreme". Section 181 also provides for different attainment dates for nonattainment areas based on the severity of the area's classification.

At present, areas on the border of Southern California and Mexico and the Juarez/El Paso border area in Texas are designated as "serious" nonattainment areas for ozone. A marginal ozone nonattainment area exists in the Buffalo, New York/Ontario Province border area. The States of Arizona, New Mexico, Texas, Maine, New Hampshire, New York, and Michigan contain ozone nonattainment areas, although these areas are not contiguous with a foreign border. In addition, it is probable that several new ozone nonattainment areas will be established in border States when designations are made for the new 8 hour, .08 part per million ozone standard in July 1999.

The Clean Air Act requires all ozone nonattainment areas to employ some form of vehicle inspection and maintenance (I&M) and further requires areas classified as being in serious, severe, or extreme nonattainment to institute "enhanced" vehicle I&M. Basic I&M includes such measures as periodic testing of tailpipe emissions and enforcement through denial of registration. Enhanced I&M can include such measures as vehicle dynamometer testing (which uses a treadmill to measure vehicle emissions) purge flow testing of evaporative emissions from vehicles, and pressure testing of vehicle evaporative systems. Altogether, the Environmental Protection Agency (EPA) considers vehicle I&M to be one of the most cost-effective control technologies available to help States meet the ozone NAAQS. EPA has estimated that vehicle inspection and maintenance programs reduce pollution at a cost of $500 per ton, as opposed to $2,000 to $10,000 per ton for stationary sources.

Need for legislation

On March 24, 1995, the Subcommittee on Oversight and Investigations conducted a hearing on vehicle inspection and maintenance programs. At this hearing, Mary Nichols, EPA Assistant Administrator for Air and Radiation, testified that inspection and maintenance programs were a "critical element in our effort to improve air quality and to protect human health." Ms. Nichols further testified that:

> Cars today emit 90 percent less pollution today when they come off the assembly lines than they did 20 years ago. The simple fact is, however, that cars deteriorate as they age, even the highly-sophisticated, computer-controlled and fuel injected cars that are being produced

> today. It is not unusual for cars on the road to pollute between 2 and 17 times as much as the new car standards to which they were designed and built. About 20 to 40 percent of the vehicles on the road today need repairs to bring down their emission levels. An inspection program is the cleanest, cheapest and smartest way to identify these cars and to ensure that they are repaired effectively * * * we have found that the vast majority of Americans understand and accept their responsibility to maintain their cars in a reasonable manner and not to remove or disable the emissions control devices. Most motorist agree that spending $20 and 15 minutes, which is about what it takes for an oil change, is a small price to pay for cleaner air and better health, providing that the test is accurate, fair and convenient.[1]

On November 18, 1997, the Subcommittee on Health and Environment held a field hearing in San Diego, California, concerning transborder air pollution and the impact of commuter vehicles on air quality in border regions. Approximately 40,000 to 45,000 vehicles per day cross the border at San Ysidro, just south of San Diego. The San Diego Air Pollution Control District has estimated that approximately 7,000 of these vehicles are commuter vehicles and that these vehicles may represent 13 percent of the vehicular inventory of ozone-forming precursors.[2]

During the November 18, 1997, field hearing, the Subcommittee received testimony from the United States Customs Service, the Environmental Protection Agency, the California Air Resources Board, a San Diego County Supervisor, a representative from the American Lung Association of San Diego and Imperial Counties, and individuals representing other local interests. The United States Customs Service testified that it does not presently have legal authority to deny entry to motor vehicles on the basis that such vehicles do not meet State inspection and maintenance requirements.[3] The California Air Resources Board testified that it supported H.R. 8 on the basis of its impact on air quality and as a matter of equity for U.S. citizens. The San Diego County Supervisor testified that the San Diego County Board of Supervisors supported H.R. 8 as a means to address air quality problems as well

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[1] Subcommittee on Health and Environment Hearing, Clean Air Act Amendments Inspection and Maintenance Programs, March 23 and 24, 1995, Serial No. 104–16 at pp. 175 and 177.

[2] Other estimates of emissions associated with these vehicles vary, however, testimony received during the Subcommittee's hearing indicated that these vehicles tend to be older and emit more pollution than California vehicles subject to State inspection and maintenance requirements. California Air Resources Board Chairman John D. Dunlap, III, testified that "preliminary data indicates that in some cases, Mexican vehicles emit up to 4 times the emissions of a California car." Mr. Paul Ganster, Director, Institute for Regional Studies of the Californias, testified that while it was difficult to estimate the impact of transborder traffic on the ambient air quality of San Diego, "there could be as many as 39,000 vehicles on San Diego streets each day that are Mexican in registration * * *. It is believed that the Mexican vehicles produce approximately ten-fold higher levels of pollutants than the San Diego vehicles * * *". Subcommittee on Health and Environment Hearing, Transborder Air Pollution, Including the Impact of Emissions from Foreign Transborder Commuter Vehicles on Air Quality in Border Regions, November 18, 1997, Serial No. 105–60 at pp. 21 and 47.

[3] Testimony of Mr. Rudy M. Camacho, Director, Southern California Customs Management Center, U.S. Customs Service; Subcommittee on Health and Environment Hearing, Transborder Air Pollution, Including the Impact of Emissions from Foreign Transborder Commuter Vehicles on Air Quality in Border Regions, November 18, 1997, Serial No. 105–60 at p. 33.

as a lack of jurisdiction by State and local officials in the border area.

Altogether, at present, foreign-registered vehicles may enter the United States daily, operate on highways in nonattainment areas, contribute to air pollution in the nonattainment area, and either not be subject to State inspection and maintenance laws or be able to avoid effective enforcement of State laws requiring such vehicles to be registered and subject to local I&M programs.[4] In addition to environmental concerns associated with such vehicular pollution, State and local officials, as well as private citizens, have argued that it is simply not equitable to treat U.S. vehicles and foreign-registered vehicles differently.[5] H.R. 8 is intended address this problem and to provide States that contain ozone nonattainment areas and that are located on the border of the United States and Mexico and Canada with mechanisms to enforce State laws regarding the inspection and maintenance of foreign-registered vehicles.

One mechanism provided in the legislation is to require the denial of entry into the United States of foreign-registered, noncommercial vehicles which do not meet State inspection and maintenance requirements applicable in ozone nonattainment area and to provide for fines for certain operators of such vehicles. Another mechanism provided in the legislation is to allow States on the border of the United States which contain ozone nonattainment areas the option to design an alternative approach, subject to the approval of the President of the United States or his designee. An alternative approach must be designed to facilitate the compliance by motor vehicles registered in foreign countries with motor vehicle inspection and maintenance requirements in effect in ozone nonattainment areas, but a State is only required to submit a written description of the approach which is acceptable to the President and is not required to revise an applicable State Implementation Plan. Therefore, taken as a whole, H.R. 8 will allow border States options to more effectively enforce inspection and maintenance laws against all vehicles, whether registered in the State or in a foreign country, which operate in ozone nonattainment areas and which affect air quality in the nonattainment area.

H.R. 8 also provides time and opportunity for foreign-registered vehicles to comply with State inspection and maintenance requirements established by the legislation. Inspection and maintenance requirements on foreign-registered vehicles imposed in States under paragraph (h)(1) of Section 2 of the bill will not take effect until 180 days after enactment of the legislation or 180 days after Presidential approval of a State which "opts in" to the paragraph (h)(1) program. This time is intended to allow sufficient opportunity to distribute information to publicize the fact that vehicles will be subject to denial of entry and that operators face the possibility of fines. In addition, vehicles entering States operating under paragraph (h)(1) of Section 2 will be allowed to enter nonattainment

[4] On September 30, 1993, the California Governor approved AB 2008. The enactment of this bill added Health and Safety Code Section 44011.1 which expanded the coverage of vehicles subject to California's smog check program to include registered vehicles which are garaged outside of California and used for daily commuting.

[5] Testimony of Mr. John D. Dunlap, III; Mr. Greg Cox; and Dr. Kevin M. Murray; Subcommittee on Health and Environment Hearing, November 18, 1997, Serial No. 105–60, at pp. 21, 38, and 63.

areas twice within a 12 month period without having complied with applicable inspection and maintenance requirements. This entry is intended to allow such vehicles to be inspected and certified by States that require such inspection and maintenance. In the case of States which opt for alternative approaches, any approach approved by the President will not take effect until one year after such approval. This time period is similarly intended to allow for sufficient time for implementation of any new requirements under the legislation.

H.R. 8 additionally provides legal authority to the President of the United States to enforce applicable State inspection and maintenance requirements. The legislation confers such authority in three instances. First, H.R. 8 would provide the President with legal authority (and require the President to exercise such authority within 180 days) to deny entry and collect fines with respect to foreign-registered noncommercial vehicles in States with serious, severe or extreme ozone nonattainment areas which are contiguous to the border, and where State law required the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area. Entry would be denied to vehicles operated by U.S. citizens, permanent residents, or aliens holding valid visas for employment or educational study. At present, only the State of California meets the requirement of a contiguous ozone nonattainment area, designated serious or above, and the requirement that State law provide for the inspection and maintenance of foreign-registered noncommercial vehicles.

Second, upon the application of a border State containing ozone nonattainment areas in any area of the State, H.R. 8 would provide legal authority to the President (and require the exercise of this authority 180 days after the President receives the application) to deny entry and impose fines on foreign-registered noncommercial vehicles where State law provided for the inspection and maintenance of such vehicles. Vehicles not in compliance with applicable State law and operated by U.S. citizens, permanent residents, or aliens with a valid employment or educational visa would be denied entry and be subject to fines on the same basis as such vehicles in States which contain contiguous ozone nonattainment areas. At present, the States of Arizona, New Mexico, Texas, Maine, New Hampshire, New York and Michigan contain ozone nonattainment areas that are noncontiguous to a foreign border.[6]

Third, upon the application of a border State containing ozone nonattainment areas in any area of the State, H.R. 8 would provide legal authority to the President (and require the exercise of this authority one year after the President receives the application) to implement an alternative approach to facilitate the compliance of foreign-registered motor vehicles entering nonattainment areas with State inspection and maintenance requirements. Such an alternative approach, however, must be approved by the President before it is legally effective. All States which contain ozone nonattainment areas and which border a foreign country may make an

[6] Texas and New York also contain ozone nonattainment areas that are contiguous to a foreign border. National Air Quality and Emissions Trends Report, 1996; United States Environmental Protection Agency, January 1998, pp. 73–74.

application to the President for adoption of an alternative approach.

Finally, H.R. 8 provides for a study of the impact of amendments made by the legislation. This study is required to compare the potential impact of the amendments on air quality in ozone nonattainment areas with the impact on air quality in the same areas caused by vehicles registered in, or operating from, Mexico as a result of the implementation of the North American Free Trade Agreement.

HEARINGS

The Subcommittee on Health and Environment held a field hearing in San Diego, California, on November 18, 1997, concerning transborder air pollution and the impact of commuter vehicles on air quality in border regions and received testimony concerning H.R. 8. Witnesses at this hearing were as follows: Mr. Rudy M. Camacho, Director, Southern California Customs Management Center, U.S. Customs Service; Mr. David Howekamp, Director, Air Division, U.S. Environmental Protection Agency, Region IX; Mr. John D. Dunlap, III, Chairman, California Air Resources Board; Mr. Greg Cox, County Supervisor, San Diego County Board of Supervisors; Mr. Paul Ganster, Director, Institute for Regional Studies of the Californias, San Diego State University, California; Mr. Stanley Kenniston, Member, Citizens for Clean Air Policy; Dr. Kevin M. Murray, Chairman, Board of Directors, American Lung Association of San Diego and Imperial Counties; and Mr. Eugene J. Sprofera, private citizen.

COMMITTEE CONSIDERATION

On June 19, 1998, the Subcommittee on Health and Environment met in open markup session and approved H.R. 8, the Border Smog Reduction Act of 1998, for Full Committee consideration, amended, by a voice vote. On June 24, 1998, the Committee on Commerce met in open markup session and ordered H.R. 8 reported to the House, amended, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 8 reported. An amendment by Mr. Brown to require the General Accounting Office to study the potential impact on air quality of approval of the Border Smog Reduction Act with the impact of increased commercial vehicles from Mexico resulting from implementation of the North American Free Trade Agreement was agreed to by a voice vote. An amendment by Mr. Bilbray to allow border States that contain ozone nonattainment areas to "opt in" to either (1) a program of enforcing State inspection and maintenance laws through denial of entry to certain noncommercial foreign-registered vehicles with fines for violations, or (2) an alternative program designed by the border State with the approval of the Federal government was agreed to by a voice vote.

A motion by Mr. Bliley to order H.R. 8 reported to the House, as amended, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform and Oversight.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee finds that H.R. 8, the Border Smog Reduction Act of 1998, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 1998.

Hon. TOM BLILEY,
Chairman, Committee on Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 8, the Border Smog Reduction Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for this estimate are Mark Grabowich (for federal costs), Pepper Santalucia (for the state and local impact), and Patrice Gordon (for the impact on the private sector).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 8—Border Smog Reduction Act of 1998

Summary: H.R. 8 would deny regular entry into the United States to certain operators of noncommercial motor vehicles registered in a foreign country that do not comply with state laws regarding motor vehicles emissions. Under this bill, such operators would have to document compliance with state inspection and maintenance requirements before entering border areas experiencing specified levels of ozone pollution. Federal enforcement would begin 180 days after enactment of the bill unless the affected states elect to be exempt from the program. These prohibitions could apply to other border areas under certain terms and conditions. Violators of the bill's provisions would be subject to a civil fine of up to $400. This legislation also would direct the General Accounting Office (GAO) to prepare a report on air quality issues related to the implementation of this bill and the North American Free Trade Agreement with Mexico.

CBO estimates that implementing this legislation would increase federal spending by about $1 million in fiscal year 1999 and about $1.5 million each year thereafter, assuming the appropriation of the necessary amounts. Annual costs could reach $3 million by 2000 if all eligible states participate in the program established by the bill. This legislation could affect receipts, so pay-as-you-go procedures would apply, but any effects would be less than $500,000 a year.

H.R. 8 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would impose a private-sector mandate, as defined by UMRA, but CBO estimates that the cost of complying with such a mandate would not exceed the statutory threshold established in UMRA ($100 million 1996, adjusted annually for inflation).

Estimated cost to the Federal Government: Implementing H.R. 8 would increase the workload of the Customs Service in any state that allows the border restrictions to apply. Assuming that the entry restrictions would go into effect in California, which seems likely, the service would have to check roughly 10,000 vehicles daily for compliance with California's inspection requirements. Customs would require additional resources to prevent increases in waiting times for vehicles crossing the border. We estimate that enacting H.R. 8 would cost about $700,000 in fiscal year 1999 and about $1.5 million annually thereafter for additional staff for the Customs Service, subject to the availability of appropriations. If the other eligible border states allow the bill's restrictions to apply at their borders, the total cost to the service would reach $3 million annually, probably beginning in fiscal year 2000.

H.R. 8 would require GAO to prepare by July 1, 1999, a report assessing the potential impact of the bill's provisions on air quality. Based on information from the agency, CBO estimates that GAO would spend about $300,000 in fiscal year 1999 to conduct the study, assuming appropriation of the necessary amounts.

The bill's provisions relating to new civil penalties could result in increased collections of civil fines. These fines are classified as revenues (governmental receipts), but CBO estimates that any such increase would be less than $500,000 annually.

Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Enacting H.R. 8 could increase receipts, but CBO estimates that any such increase would be less than $500,000 annually.

Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA because states would not be required to take any action as a result of this bill's enactment. Any costs incurred by states, which are likely to be small, would result from their decision to allow the entry restriction in the bill to apply at their border.

Estimated impact on the private sector: H.R. 8 would impose a private-sector mandate, as defined by UMRA by preventing entry into the United States of certain foreign-registered vehicles in border areas that have the worst ozone pollution problems. The federal government would enforce this prohibition in any state that has requirements for inspection and maintenance of those vehicles as part of its state implementation plan under the Clean Air Act, unless the state opts out. In order to cross the border in those areas, drivers of those vehicles would have to prove to a federal border agent that their vehicle is in compliance with the state vehicle inspection law. States with less severe ozone pollution problems could request federal enforcement of the prohibition at their borders.

CBO assumes that San Diego, California, is the only ozone nonattainment area where federal enforcement would automatically go into effect. About 10,000 people commuting to work or school using the ports of entry between Mexico and San Diego could be subject to this federal mandate. Based on the number of vehicles affected and the likely costs of compliance, CBO estimates that the cost of complying with such a mandate would not exceed the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

Estimate prepared by: Federal costs: Mark Grabowicz; Impact on State, local, and tribal governments: Pepper Santalucia; Impact on the private sector: Patrice Gordon.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section designates the short title of the Act as the "Border Smog Reduction Act of 1998."

Section 2. Amendment to the Clean Air Act

This section adds a new subsection to Section 183 of the Clean Air Act (42 U.S.C. 7511b). Paragraph (1) of this subsection provides that foreign-registered noncommercial vehicles, operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a valid visa for purposes of employment or educational study, will be denied entry into serious, severe or extreme ozone nonattainment areas which are contiguous to the border of the United States if State law has requirements for inspection and maintenance of such vehicles under the applicable implementation plan for the nonattainment area and such vehicles have not complied with the inspection and maintenance requirements. Foreign-registered noncommercial vehicles are allowed, however, to enter an ozone nonattainment area meeting the criteria established by paragraph (1) twice in a single 12-month period and, furthermore, such vehicles will not be denied entry if an operator of the vehicle presents documentation that the vehicle is in compliance with applicable inspection and maintenance requirements. The subsection also provides for civil penalties for violations or attempted violations of the prohibition established in paragraph (1).

A State which meets the criteria of paragraph (1) of the subsection may elect to not apply the prohibition contained in the paragraph if the State provides written notice to the President of such election. In addition, in States which border a foreign country and which contain ozone nonattainment areas, a State may elect to apply the prohibition contained in paragraph (1) or elect to establish an alternative approach to facilitate the compliance of foreign-registered motor vehicles entering ozone nonattainment areas in the State with motor vehicle inspection and maintenance requirements in effect under an applicable implementation plan. An alternative approach may only be established, however, if the Governor of a State submits a written description of the approach to the President and the President approves the approach. States which contain serious, severe and extreme ozone nonattainment areas which are contiguous to a foreign border (and meet all other requirements of paragraph(1)) may also elect to submit an alternative approach to the President for his approval. Alternative approaches approved by the President take effect one year after the President approves the approach. In States which elect to apply the prohibition in paragraph (1), the prohibition takes effect 180 days

after the President's receipt of written notice notifying the President of an election to apply to the prohibition.

Section 3. General provisions

This section provides that the prohibition established in paragraph (1) of Section 2 takes effect 180 days after the enactment of the Act in States meeting the criteria established in that paragraph. This section also provides that appropriate agencies of the government must distribute information to publicize the prohibition, and the effective date of the prohibition, set forth in Section 2.

Section 4. Study by General Accounting Office

This section directs the Comptroller General of the United States to conduct a study of the impact of the amendments made by the Act. The section directs the Comptroller to study the potential impact of the amendments made by the Act on air quality in ozone nonattainment areas affected by the Act with the impact on air quality in the same areas caused by the increase in vehicles engaged in commerce operating in the United States and registered in, or operated from, Mexico, as a result of the implementation of the North American Free Trade Agreement.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 183 OF THE CLEAN AIR ACT

SEC. 183. FEDERAL OZONE MEASURES.

(a) * * *

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(h) VEHICLES ENTERING OZONE NONATTAINMENT AREAS.—

(1) AUTHORITY REGARDING OZONE INSPECTION AND MAINTENANCE TESTING.—No noncommercial motor vehicle registered in a foreign country and operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a valid visa for purposes of employment or educational study in the United States, may enter a serious, severe, or extreme ozone nonattainment area from a foreign country bordering the United States and contiguous to such nonattainment area more than twice in a single 12-month period, if State law has requirements for the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area. The preceding sentence shall not apply if the operator presents documentation at the United States border entry point establishing that the vehicle has complied with such requirements that are in effect and are applicable to motor vehicles of the same type and model year.

(2) SANCTIONS FOR VIOLATIONS.—The President of the United States may impose and collect from the operator of any motor vehicle who violates, or attempts to violate, paragraph (1) a

civil penalty of not more than $200, except that in any case of repeated violations or attempted violations such penalty may not exceed $400.

(3) STATE ELECTION.—The prohibition set forth in paragraph (1) shall not apply in any State which elects to be exempt from the prohibition. Such election shall take effect upon the President's receipt of written notice from the Governor of the State notifying the President of such election.

(4) STATE ELECTION FOR OTHER NONATTAINMENT AREAS.—

(A) IN GENERAL.—In the case of a State that is contiguous with a foreign country and that contains an ozone nonattainment area (other than an ozone nonattainment area to which paragraph (1) applies), such State may elect for the prohibition described in such paragraph to apply in the State, or may elect to establish in accordance with subparagraph (B) an alternative approach to facilitate the compliance, by motor vehicles registered in foreign countries and entering such nonattainment area, with the motor vehicle inspection and maintenance requirements in effect under the applicable implementation plan in the nonattainment area and applicable to motor vehicles of the same type and model year.

(B) ALTERNATIVE APPROACH.—An alternative approach by a State under subparagraph (A) is established in accordance with this subparagraph if the Governor of the State submits to the President a written description of such approach and the President approves the approach as facilitating compliance for purposes of such subparagraph.

(C) EFFECTIVE DATE REGARDING STATE ELECTION.—If a State makes an election under subparagraph (A) for an alternative approach, the alternative approach takes effect in the State one year after the date on which the President approves the approach. If the State makes the other election under such subparagraph, the prohibition described in paragraph (1) takes effect in the State 180 days after the President's receipt of written notice from the Governor of the State notifying the President of such election.

(5) ALTERNATIVE APPROACH REGARDING SERIOUS, SEVERE, AND EXTREME AREAS.—In the case of a State containing an ozone nonattainment area to which paragraph (1) applies, paragraph (4) applies to the State to the same extent and in the same manner as such paragraph applies to States described in such paragraph, subject to paragraph (3).

(6) DEFINITION.—For purposes of this section, a serious, severe, or extreme ozone nonattainment area is a Serious Area, a Severe Area, or an Extreme Area as classified under section 181, respectively, other than any such area first classified under such section after the date of the enactment of the Border Smog Reduction Act of 1998.

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