

**ALEC EXPOSED**

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

**DID YOU KNOW?** Corporations **VOTED** to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a **VOICE** and a **VOTE**," according to newly exposed documents. **DO YOU?**

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[Insert for each state]

Proposed

**State Implementation Plan Requirements for Ozone and Particulate Matter Attainment**

A Bill

IN THE [HOUSE/ SENATE]

OF [STATE]

An Act requiring public hearings and legislative review of certain proposed state actions related to State Implementation Plans required to be submitted to the U.S. Environmental Protection Agency for attainment or maintenance of the National Ambient Air Quality Standards for ozone or particulate matter. Requiring prior legislative approval of and prohibiting the submission of State Implementation Plans under certain circumstances. Requiring an economic and environmental analysis of any state proposal to exceed the requirements of U.S. EPA's Clean Air Interstate Rule, 70 FR 25162, May 12, 2005, or other applicable Federal environmental standards or regulations for purposes of demonstrating attainment with the ozone or particulate matter standards.

An Act Concerning State Implementation Plans for Ozone and Particulate Matter Attainment

**Short Title:** This Act may be referred to as the Clean Air State Implementation Plan Act of 2006.

**Section 1. Findings and Purposes**

The [House/Senate] of [State] hereby find that:

(a) The Federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., contains a comprehensive regulatory scheme for the control of emissions from mobile and stationary sources;

(b) Ozone, particulate matter and other harmful air pollutants have declined substantially during the past 35 years throughout the United States due in part to implementation of the 1970 Clean Air Act, and additional air quality improvements will result as the 1990 Clean Air Act Amendments and related U.S. Environmental Protection Agency ("U.S. EPA") air quality regulations are implemented;

(c) As result of U.S. EPA's 1997 revisions to the ozone and particulate matter air quality standards, creating a new 8-hour ozone standard and a new standard for fine particulate matter ("PM2.5"), hundreds of counties throughout the nation have been designated by U.S. EPA as being in nonattainment with one or both of these standards, requiring states to prepare State Implementation Plans indicating their plans to achieve attainment;

(d) In November 1997, anticipating the need to reduce emissions contributing to the interstate transport of ozone, U.S. EPA proposed the NOx SIP Call, 62 FR 60318, requiring electric generators and industrial facilities to reduce emissions of

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nitrogen oxides through state-implemented emission budgets;

(e) As subsequently promulgated and implemented, the NOx SIP Call, 63 FR 57356, will reduce ozone season nitrogen oxide emissions by electric generators in 19 eastern states by more than 70 percent compared to 1990 emission levels, U.S. EPA, NOx Budget Trading Program 2003 Progress and Compliance Report (August 2004);

(f) In May 2005, U.S. EPA promulgated a final Clean Air Interstate Rule (CAIR), 70 FR 25162, requiring significant reductions of sulfur dioxide and nitrogen oxide emissions by electric generators in a 28-state region of the eastern United States, to further reduce the interstate transport of air pollutants contributing to nonattainment of U.S. EPA air quality standards;

(g) In February 2000, EPA promulgated new Tier II emission standards and gasoline sulfur standards for automobiles, SUVs, vans and light-duty trucks, 65 FR 6698, requiring significant reductions of nitrogen oxide and hydrocarbon emissions from new passenger vehicles; together with EPA standards for desulfurization of gasoline, these new emission standards will reduce emissions by 77% to 95% relative to 2003 model year vehicles, and will produce significant air quality benefits throughout the nation;

(h) In January 2001, EPA promulgated the Clean Diesel Trucks and Buses Rule, 66 FR 5136, requiring 95% reduction of emissions from heavy-duty on-road trucks through a combination of engine and fuel modifications, including a 97% reduction of the sulfur content of diesel fuel from a current level of 500 parts per million to 15 parts per million; the new clean fuel standards will be phased in from June 2006 through 2009, and the new engine standards will be phased in from 2007 to 2010;

(i) In June 2004, EPA promulgated the Clean Air Nonroad Diesel Rule, 69 FR 38958, requiring up to 95% reduction of emissions from offroad diesel engines such as construction equipment; the new rules will be phased in between 2008 and 2014, and are accompanied by required reductions in the sulfur content of nonroad diesel fuels, from current levels of 3,000 parts per million to 500 ppm in 2007 and 15 ppm by 2010;

(j) U.S. EPA modeling findings show that implementation of the Clean Air Interstate Rule and other EPA rules reducing emissions from mobile sources will substantially assist state efforts to attain the national ambient air quality standards for ozone and PM2.5; these findings reflect the application of criteria that U.S. EPA developed to require the installation of highly cost-effective controls on electric generating units ("EGUs") in upwind areas contributing to nonattainment in downwind areas: "EPA evaluated the amounts of SO2 and NOx emissions in upwind States that contribute significantly to downwind PM2.5 nonattainment and the amounts of NOx emissions in upwind States that contribute significantly to downwind ozone nonattainment. That is, EPA determined the amounts of emissions reductions that must be eliminated to help downwind States achieve attainment, by applying highly cost-effective control measures to EGUs and determining the emissions reductions that would result," 70 FR 25162, 25197.

(k) In determining the level of control stringency appropriate for CAIR, U.S. EPA considered and rejected proposals for more stringent regional SO2 and NOx controls: "Having considered this suggestion for deeper regional reductions that would not be as cost effective as the highly cost-effective reductions in today's rule, EPA believes that a more tailored approach, such as the CAIR level control as well as local controls under SIPs (where necessary), is a more reasonable approach to achieving the level of ambient improvement needed for attainment throughout the United States," 70 FR 25162, 25201.

(l) In August 2005, U.S. EPA proposed a Federal Implementation Plan for states affected by CAIR, \_\_ FR \_\_, facilitating State participation in the emission reduction program it requires, including an EPA-managed emission trading program to enable cost-effective reductions of emissions of sulfur and nitrogen oxides;

(m) Imposition of emission controls for purposes of demonstrating attainment with the Federal ozone and particulate matter standards that are more stringent than those required by CAIR, or by other Federal emission control standards and regulations, could impair the competitiveness of businesses and industries in [State], with negligible environmental benefits, and with adverse effects on employment, economic development, and income in [State];

(n) Legislative oversight of proposed regulatory actions related to the control of emissions contributing to ozone and particulate matter by sources in [State], including the preparation and submission of State Implementation Plans for ozone and PM2.5 attainment, is in the public interest.

## **Section 2. Review of Proposed State Implementation Plans Related to Ozone and Particulate Matter**

(a) Not less than 180 days prior to the date that the U.S. Environmental Protection Agency specifies for the submission of a State Implementation Plan for [State] related to ozone or particulate matter attainment, the [Secretary/Administrator] of the [State] [Department/Agency of Environmental Protection or other appropriate agency] shall provide the [House/Senate Committee on \_\_\_\_] with a report describing the proposed contents and requirements of such State Implementation Plan(s);

(b) The report required by the preceding paragraph shall include analyses of the costs, cost-effectiveness, electric reliability and environmental impacts of any emission control measures proposed for the electric generation sector exceeding the requirements of the Clean Air Interstate Rule, and shall assess the costs, cost-effectiveness, and environmental impacts of any measures proposed for other source sectors that exceed applicable Federal emission standards and regulations, including an assessment of the relative cost-effectiveness of emission controls potentially applicable to source sectors that are not subject to Federal emission standards and regulations, measured in terms of cost per ton of pollutant reduced and per unit of air quality improvement;

(c) Within 30 days following receipt of the aforesaid report, the [House/Senate Committee on \_\_\_\_] shall convene at least one public hearing to receive comments from agencies of government and other interested parties on the prospective economic, energy and environmental impacts of proposed measures to be included in said State Implementation Plan(s), including both positive and negative impacts on public health, energy use, electric reliability, economic development, utility costs and rates, transportation fuel and other consumer costs, and industrial competitiveness; provided, however, that such public hearing shall not be required if such State Implementation Plan(s) call for compliance with the Clean Air Interstate Rule and other applicable Federal emission control standards and regulations as the bases for emission reductions necessary to demonstrate attainment with the ozone and particulate matter standards;

(d) In the absence of a resolution or other act of the [House/Senate of \_\_\_\_] approving same, the [Secretary/Administrator] of the [State] [Department/Agency of Environmental Protection or other appropriate agency] shall not submit to the U.S. Environmental Protection Agency any State Implementation Plan related to ozone or particulate matter attainment that would impose emission controls on the electric generation or other source sectors more stringent than those necessary for such sectors to comply with the Clean Air Interstate Rule or with other applicable Federal emission control standards and regulations, nor adopt any regulations, memoranda of understandings or similar agreements seeking to implement such controls;

(e) This Act shall remain in effect unless amended or repealed and shall apply to any State Implementation Plan required to be submitted to U.S. EPA pursuant to any new or revised National Ambient Air Quality Standards for ozone and particulate matter that may be promulgated subsequent to the date of its enactment.

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