

112TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Clean Air Act to require the exclusion of data of an exceedance or violation of a national ambient air quality standard caused by a prescribed fire in the Flint Hills Region, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Clean Air Act to require the exclusion of data of an exceedance or violation of a national ambient air quality standard caused by a prescribed fire in the Flint Hills Region, 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 “Flint Hills Preserva-  
5        tion Act”.

6        **SEC. 2. FINDINGS.**

7        Congress finds that—

1           (1) the Flint Hills Region of Kansas and Okla-  
2           homa contains the world's largest share of the re-  
3           maining tallgrass prairie, and is the only place in  
4           which that habitat occurs in landscape proportions;

5           (2) only 4 percent of the presettlement tallgrass  
6           prairie in North America survives to this day, and  
7           80 percent of that prairie is located in Kansas;

8           (3) the Flint Hills Region is also home to cer-  
9           tain declining avian species, such as the greater  
10          prairie chicken and Henslow's sparrow, that cannot  
11          continue to exist without large expanses of native  
12          tallgrass prairie in an original state;

13          (4) the Flint Hills Region is a significant cor-  
14          ridor for migrating shorebirds, such as the American  
15          golden plover, the buff-breasted sand-piper, and the  
16          upland sandpiper;

17          (5) beginning in the mid-19th century, cattle-  
18          men understood that the richness of the Flint Hills  
19          grasses depended on a good spring burn—something  
20          they learned from the Native Americans;

21          (6) fire still thrives in the Flint Hills because  
22          the ranchers, and others using the land, understand  
23          that the natural ecosystem depends on fire;

24          (7) ranchers, landowners, and conservation  
25          groups use prescribed burns to mimic the seasonal

1 fires that have shaped the tallgrass prairie for thou-  
2 sands of years;

3 (8) areas not burned for several years develop  
4 mature grasses and thicker, thatch-like vegetation, a  
5 habitat that is preferred by invasive species;

6 (9) the Flint Hills Region is 1 of the few places  
7 in the United States where the prevailing agricul-  
8 tural system works essentially in tandem with an an-  
9 cestral native ecosystem, preserving most of the  
10 complexity and the dynamic processes that helped  
11 shape the area; and

12 (10) due to the uniqueness of the Flint Hills  
13 tallgrass prairie and the historic manner in which  
14 the tallgrass prairie has been managed by fire—

15 (A) prescribed burn practices used as of  
16 the date of enactment of this Act to manage the  
17 Flint Hills tallgrass prairie should be allowed to  
18 continue; and

19 (B) ambient air data resulting from fires  
20 used for that management should be not be in-  
21 cluded in determinations of compliance with the  
22 Clean Air Act (42 U.S.C. 7401 et seq.).

23 **SEC. 3. PRESCRIBED FIRES.**

24 The Clean Air Act is amended by inserting after sec-  
25 tion 329 (42 U.S.C. 7628) the following:

1 **“SEC. 330. PRESCRIBED FIRES IN THE FLINT HILLS RE-**  
2 **GION.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) FLINT HILLS REGION.—

5 “(A) IN GENERAL.—The term ‘Flint Hills  
6 Region’ means the band of hills located in east-  
7 ern Kansas and north-central Oklahoma.

8 “(B) INCLUSIONS.—The term ‘Flint Hills  
9 Region’ includes—

10 “(i) Butler, Chase, Chautauqua, Clay,  
11 Cowley, Dickinson, Elk, Geary, Greenwood,  
12 Harvey, Jackson, Lyon, Marion, Marshall,  
13 Morris, Ottawa, Pottawatomie, Riley, Sa-  
14 line, Shawnee, Wabaunsee, Washington,  
15 and Woodson Counties in the State of  
16 Kansas; and

17 “(ii) Osage, Tulsa, and Washington  
18 counties in the State of Oklahoma.

19 “(2) PRESCRIBED FIRE.—The term ‘prescribed  
20 fire’ means a fire that is set or managed by a person  
21 with the goal of enhancing a fire-dependent eco-  
22 system or enhancing the productivity of agricultural  
23 grazing land, irrespective of the frequency with  
24 which the burn occurs.

25 “(b) EXCLUSION OF DATA.—In determining whether,  
26 with respect to a specific air pollutant, an exceedance or

1 violation of a national ambient air quality standard has  
2 occurred for purposes of this Act, a State and the Admin-  
3 istrator shall exclude data from a particular air quality  
4 monitoring location if emissions from 1 or more prescribed  
5 fires in the Flint Hills Region cause a concentration of  
6 the air pollutant at the location to be in excess of the  
7 standard.

8       “(c) SPECIFIC LIMITATIONS.—If emission data is ex-  
9 cluded under subsection (b) from a particular air quality  
10 monitoring station because of emissions from 1 or more  
11 prescribed fires in the Flint Hills Region—

12           “(1) the Administrator shall not, as a result of  
13 the emissions, find under section 113 that a State  
14 has failed to enforce, or that a person has violated,  
15 a State implementation plan (for national primary  
16 or secondary ambient air quality standards) under  
17 section 110; and

18           “(2) a State shall not, as a result of the emis-  
19 sions, find that a person has violated, or bring an  
20 enforcement action for violation of, a State imple-  
21 mentation plan (for national primary or secondary  
22 ambient air quality standards) under section 110.

23       “(d) PROHIBITION AGAINST SMOKE MANAGEMENT  
24 PLANS.—The Administrator shall not require, and a State  
25 shall not adopt, a smoke management plan under this Act

1 in connection with any prescribed fire in the Flint Hills  
2 Region.

3 “(e) NOT A STATIONARY SOURCE.—No building,  
4 structure, facility, or installation may be treated as a sta-  
5 tionary source under section 111 as a result of 1 or more  
6 prescribed fires in the Flint Hills Region.

7 “(f) NO TITLE V PERMIT REQUIRED.—No person  
8 shall be required to obtain or modify a permit under title  
9 V in connection with a prescribed fire in the Flint Hills  
10 Region.”.