

108TH CONGRESS  
2D SESSION

# H. R. 4309

To amend the Clean Air Act to provide needed flexibility to States regarding the designation of certain counties as nonattainment areas for ozone under the 8-hour ozone standard, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2004

Mr. HILL introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Clean Air Act to provide needed flexibility to States regarding the designation of certain counties as nonattainment areas for ozone under the 8-hour ozone standard, 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. REDESIGNATION OF TRANSITIONAL AREAS**  
4 **FOR 8-HOUR OZONE STANDARD.**

5 Section 107(d) of the Clean Air Act (42 U.S.C.  
6 7407(d)) is amended by adding the following new subpara-  
7 graph at the end of paragraph (3):

1           “(G) In addition to the authority to redese-  
2           gnate areas under other provisions of this  
3           paragraph, the Administrator shall redesignate  
4           as transitional any area that has been des-  
5           ignated as nonattainment for the 8-hour ozone  
6           national primary or secondary ambient air qual-  
7           ity standard if—

8                   “(i) the area consists of a single coun-  
9                   ty;

10                   “(ii) the county does not qualify as a  
11                   rural transport area under section 182(h)  
12                   solely by reason of the presence of an adja-  
13                   cent standard metropolitan statistical area  
14                   or consolidated metropolitan statistical  
15                   area;

16                   “(iii) the county is not in the ozone  
17                   transport region established under section  
18                   184(a);

19                   “(iv) the Governor of the State in  
20                   which the county is located, after consulta-  
21                   tion with the State air pollution control  
22                   agency (as defined in section 302(b)), pro-  
23                   vides to the Administrator a demonstration  
24                   that ozone control measures in effect for  
25                   such county will provide that such stand-

ard will be attained in such county on or before the date on which State implementation plan provisions are required to be submitted for the attainment and maintenance of such standard in the nonattainment area; and

“(v) the Governor of the State in which the county is located, after consultation with the State air pollution control agency (as defined in section 302(b)), makes a binding commitment to the Administrator that—

“(I) the air pollution control agency will (in addition to any other analysis required under other provisions of this Act) make a determination regarding the lowest achievable emission rate (LAER) that would have applied to each major stationary source constructed or modified in the county concerned after the date of the redesignation of the county under this subparagraph if such redesignation had not taken place; and

1                   “(II) the air pollution control  
 2                   agency will obtain emission offsets in  
 3                   accordance with section 110(q)(2) for  
 4                   ozone and ozone precursors emitted  
 5                   from each source referred to in sub-  
 6                   clause (I) if the county fails to attain  
 7                   the 8-hour ozone national primary or  
 8                   secondary ambient air quality stand-  
 9                   ard on or before the date on which  
 10                  State implementation plan provisions  
 11                  are required to be submitted as pro-  
 12                  vided in clause (iv).

13                  The Administrator shall make such redesigna-  
 14                  tion effective within 30 days after receiving  
 15                  such notice from the Governor.”.

16 **SEC. 2. STATE IMPLEMENTATION PLANS FOR TRANSI-**  
 17 **TIONAL AREAS.**

18                  Section 110 of the Clean Air Act (42 U.S.C. 77410)  
 19                  is amended by adding the following new subsection at the  
 20                  end thereof:

21                  “(q) TRANSITIONAL AREAS.—

22                         “(1) SUBTITLE C.—Each county redesignated  
 23                  as transitional pursuant to section 107(d)(1)(G)  
 24                  shall be treated as an attainment or unclassifiable

1 area for purposes of the prevention of significant de-  
2 terioration provisions of part C of this title.

3 “(2) FAILURE TO ATTAIN.—No later than 3  
4 years after the redesignation of a county as transi-  
5 tional pursuant to subparagraph (G) of section  
6 107(d)(1), the Administrator shall determine wheth-  
7 er the county has attained the 8-hour national pri-  
8 mary and secondary standards for ozone. If the Ad-  
9 ministrator determines that a county has not at-  
10 tained such standards—

11 “(A) the county shall be redesignated as  
12 nonattainment within 1 year of the determina-  
13 tion and the State shall be required to submit,  
14 within 2 years of such redesignation as non-  
15 attainment, a State implementation plan revi-  
16 sion for such county satisfying the provisions of  
17 part D of this title; and

18 “(B) such plan revision shall require, in  
19 addition to requirements applicable under other  
20 provisions of this Act, that the State air pollu-  
21 tion control agency will provide offsets (for peri-  
22 ods after the redesignation of the county) in ac-  
23 cordance with paragraph (3) for emissions of  
24 ozone and ozone precursors from each major  
25 stationary source constructed or modified in the

1 county after the date of the redesignation of the  
2 county as transitional under such subparagraph  
3 (G).

4 “(3) AMOUNT AND LOCATION OF OFFSETS.—  
5 The offsets required under subparagraph (B) of  
6 paragraph (2) for each major stationary source may  
7 be obtained from sources in proximity to the area,  
8 in accordance with applicable guidance published by  
9 the Administrator. Such offsets shall be equivalent  
10 in amount to the difference between the following:

11 “(A) The emissions from the major sta-  
12 tionary source concerned.

13 “(B) The maximum emissions that would  
14 have been emitted from that source under the  
15 applicable requirements of this Act (including  
16 new source review) if the county had not been  
17 redesignated as a transitional area under sec-  
18 tion 107(d)(1)(G) for purposes of the 8-hour  
19 national primary and secondary standards for  
20 ozone.”.

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