

Calendar No. 453

111TH CONGRESS
2^D SESSION

S. 3373

[Report No. 111–218]

To address the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2010

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JUNE 29, 2010

Reported by Mrs. BOXER, without amendment

A BILL

To address the health and economic development impacts of nonattainment of federally mandated air quality standards in the San Joaquin Valley, California, by designating air quality empowerment zones.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Air and Health Quality
3 Empowerment Zone Designation Act of 2010”.

4 **SEC. 2. PURPOSE.**

5 The purpose of this Act is to establish criteria
6 through the use of which specific geographical areas—

7 (1) shall be designated as air and health quality
8 empowerment zones; and

9 (2) may apply for grants authorized for the
10 purpose of replacing or retrofitting polluting vehicles
11 or engines (or both vehicles and engines) in order to
12 improve the health of the population living in the
13 zones.

14 **SEC. 3. FINDINGS.**

15 Congress finds that—

16 (1) the San Joaquin Valley faces serious air
17 quality challenges that impact the development,
18 health, and economy of the Valley;

19 (2) the Valley emits approximately 624 tons of
20 nitrogen oxides per day, and attainment of the 1997
21 federally mandated 8-hour ozone standard under the
22 Clean Air Act requires emissions of not more than
23 160 tons of oxides of nitrogen per day;

24 (3) the Valley does not attain the federally
25 mandated standard for PM_{2.5};

1 (4) the children of the Valley miss 188,000
2 school days per year, which translates to 1 in 4 of
3 those children experiencing a day of absence each
4 year due to elevated ozone levels;

5 (5) approximately 460 residents of the Valley
6 die earlier than they otherwise would due to elevated
7 ozone levels, and Valley residents experience 23,300
8 asthma attacks per year, a rate that equals 3 times
9 the State average and 5 times the national average;

10 (6) 1 in 5 children residing in the Valley have
11 been diagnosed with asthma;

12 (7) nonattainment of Federal air quality stand-
13 ards costs the Valley \$3,200,000,000 annually;

14 (8) the Valley experiences chronic double-digit
15 unemployment rates; and

16 (9) the Federal Government must partner with
17 the Valley and the State to address air quality,
18 health, and economic development for the residents
19 of the Valley through the designation of the Valley
20 as air quality empowerment zone that is eligible for
21 Federal grants and technical assistance.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) AGENCY.—The term “Agency” means the
5 Environmental Protection Agency.

6 (3) CLEAN AIR ACT.—The term “Clean Air
7 Act” means the Clean Air Act (42 U.S.C. 7401 et
8 seq.).

9 (4) PM_{2.5}.—The term “PM_{2.5}” means particu-
10 late matter with a diameter that does not exceed 2.5
11 micrometers.

12 (5) STRATEGIC PLAN.—The term “strategic
13 plan” means, with respect to an area, the plan con-
14 tained in the application for designation of the area
15 under section 5.

16 (6) VALLEY.—The term “Valley” means the
17 San Joaquin Valley, California.

18 **SEC. 5. AIR QUALITY EMPOWERMENT ZONE DESIGNATION**

19 **PROCEDURES.**

20 (a) IN GENERAL.—From among the areas nominated
21 for designation under this section, the Administrator may
22 designate 1 or more areas as air and health quality em-
23 powerment zones.

24 (b) PERIOD FOR WHICH DESIGNATION IS IN EF-
25 fect.—

1 (1) IN GENERAL.—Any designation under this
2 section shall remain in effect during the period be-
3 ginning on the date of the designation and ending
4 on the earlier of—

5 (A) the last day of the tenth calendar year
6 beginning on the date of the designation; or

7 (B) the date on which the Administrator
8 revokes the designation.

9 (2) REVOCATION OF DESIGNATION.—The Ad-
10 ministrator may revoke the designation under this
11 section of an area if the Administrator determines
12 that the local air pollution control district in which
13 the designated area is located—

14 (A) has been designated as being in attain-
15 ment with the national ambient air quality
16 standard for PM_{2.5} and ozone promulgated
17 under the Clean Air Act; or

18 (B) is not complying substantially with, or
19 fails to make progress in achieving the goals of,
20 the strategic plan.

21 (c) LIMITATIONS ON DESIGNATIONS.—No area may
22 be designated under subsection (a) unless—

23 (1) the area is nominated for designation by the
24 air pollution control district with jurisdiction over
25 the area;

1 (2) the air pollution control district provides
2 written assurances satisfactory to the Administrator
3 that the strategic plan will be implemented; and

4 (3) the Administrator determines that any in-
5 formation provided is reasonably accurate.

6 (d) APPLICATION.—No area may be designated under
7 subsection (a) unless the application for the designation—

8 (1) demonstrates that the nominated area satis-
9 fies the eligibility criteria described in section 6; and

10 (2) includes a strategic plan for accomplishing
11 the purposes of this Act that—

12 (A) describes—

13 (i) the process by which the nomi-
14 nated area is a full partner in the process
15 of developing and implementing the plan;
16 and

17 (ii) the extent to which local institu-
18 tions and organizations have contributed to
19 the planning process;

20 (B) identifies—

21 (i) the amount of State, local, and pri-
22 vate resources that will be available for the
23 nominated area; and

24 (ii) the private/public partnerships to
25 be used (which may include participation

1 by, and cooperation with, institutions of
 2 higher education, medical centers, and
 3 other private and public entities);

4 (C) identifies the funding requested under
 5 any Federal program in support of the purposes
 6 of this Act;

7 (D) identifies baselines, methods, and
 8 benchmarks for measuring the success of car-
 9 rying out the strategic plan; and

10 (E) includes such other information as
 11 may be required by the Administrator.

12 **SEC. 6. ELIGIBILITY CRITERIA.**

13 (a) IN GENERAL.—A nominated area shall be eligible
 14 for designation under section 5(a) only if the area meets
 15 all of the following criteria:

16 (1) NONATTAINMENT.—The nominated area
 17 has been designated as being—

18 (A) in extreme nonattainment of the 8-
 19 hour ozone national ambient air quality stand-
 20 ard promulgated by the Administrator under
 21 the Clean Air Act; and

22 (B) in nonattainment of national ambient
 23 air quality standard for PM_{2.5} promulgated by
 24 the Administrator under that Act.

1 (2) AGRICULTURAL SOURCES.—The nominated
2 area has—

3 (A) emissions of oxides of nitrogen from
4 farm equipment of at least 30 tons per day in
5 calendar year 2010; or

6 (B) emissions of volatile organic com-
7 pounds from farming operations of at least 40
8 tons per day in calendar year 2010.

9 (3) AIR QUALITY-RELATED HEALTH EF-
10 FECTS.—As of the date of nomination, the nomi-
11 nated area meets or exceeds the national average per
12 capita incidence of asthma.

13 (4) ECONOMIC IMPACT.—As of the date of nom-
14 ination, the nominated area experiences unemploy-
15 ment rates higher than the national average.

16 (5) STATE MATCHING FUNDS.—The nominated
17 area is located within a State and local area that
18 will match at least ½ of the funds provided by the
19 Federal Government under this Act.

20 **SEC. 7. ELIGIBLE GRANT APPLICANTS.**

21 Any air pollution control district or other local gov-
22 ernmental entity authorized to regulate air quality in a
23 State under the Clean Air Act may apply for a grant
24 under this Act.

1 **SEC. 8. AUTHORIZATION OF AIR AND HEALTH EMPOWER-**
2 **MENT GRANTS.**

3 (a) **ELIGIBILITY.**—

4 (1) **IN GENERAL.**—Each area designated as an
5 air and health quality empowerment zone under sec-
6 tion 5(a) shall be eligible to receive 1 or more grants
7 under this section.

8 (2) **AMOUNT OF GRANTS.**—The amount of each
9 grant awarded to a designated air and health quality
10 empowerment zone shall be determined by the Ad-
11 ministrator based upon a review of—

12 (A) the information contained in the appli-
13 cations required by section 5(d); and

14 (B) the needs set forth in the applications
15 by those designated as beneficiaries.

16 (3) **TIMING OF GRANTS.**—With respect to each
17 designated air and health quality empowerment
18 zone, the Administrator shall make—

19 (A) a grant under this section to each such
20 zone on the date of designation of the zone
21 under section 5(a); and

22 (B) the grant under this section to each
23 such zone available on the first day of the first
24 fiscal year that begins after the date of designa-
25 tion of the zone.

1 (4) OVERSIGHT OF GRANTS.—The air pollution
2 control district or other local government entity au-
3 thorized to regulate air quality in an area designated
4 as an air and health safety empowerment zone under
5 section 5(a) shall oversee the use of any grant funds
6 provided to the zone under this section.

7 (b) USE OF GRANTS.—Each air and health safety
8 empowerment zone that receives a grant under this section
9 shall use the grant solely—

10 (1) to carry out activities that achieve the pur-
11 poses described in section 2;

12 (2) in accordance with the strategic plan for the
13 zone; and

14 (3) for activities that benefit the residents of
15 the zone for which the grant is made through im-
16 proved air quality and health.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to the Administrator to pro-
19 vide grants under this section \$20,000,000 for each of fis-
20 cal years 2011 through 2015.

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