

112TH CONGRESS  
1ST SESSION

# H. R. 1582

To address the application of the national primary ambient air quality standard for ozone with respect to extreme nonattainment areas, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. MCCARTHY of California (for himself, Mr. NUNES, Mr. DENHAM, and Mr. ISSA) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To address the application of the national primary ambient air quality standard for ozone with respect to extreme nonattainment areas, 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 “Commonsense Ozone  
5 Regulation Act”.

1 **SEC. 2. EXCLUSIVE APPLICATION OF 8-HOUR NAAQS TO**  
2 **COVERED EXTREME OZONE NONATTAINMENT**  
3 **AREAS.**

4 (a) IN GENERAL.—Notwithstanding section 172(e) of  
5 the Clean Air Act (42 U.S.C. 7502(e)), any covered ex-  
6 treme ozone nonattainment area shall not be subject to  
7 any control (as defined in section 4(2)) pursuant to the  
8 1-hour national primary ambient air quality standard for  
9 ozone.

10 (b) RETROACTIVE APPLICABILITY.—Subsection (a)  
11 applies as of the effective date of the classification of the  
12 area involved as extreme pursuant to the 8-hour national  
13 primary ambient air quality standard for ozone promul-  
14 gated on July 18, 1997 (62 Fed. Reg. 38856).

15 **SEC. 3. POSTPONEMENT OF FUTURE OZONE STANDARDS**  
16 **FOR COVERED EXTREME OZONE NONATTAIN-**  
17 **MENT AREAS.**

18 (a) POSTPONEMENT OF STANDARD.—With respect to  
19 any covered extreme ozone nonattainment area—

20 (1) the Administrator may take such steps as  
21 are necessary to classify the area pursuant to any  
22 rule setting the level of the 8-hour national primary  
23 ambient air quality standard for ozone below 0.08  
24 parts per million; and

25 (2) until the date that is 6 months after a re-  
26 port on the feasibility of compliance in the area with

1 the rule described in paragraph (1) is submitted to  
2 the Congress and the Administrator under sub-  
3 section (b)(4)—

4 (A) the rule described in paragraph (1)  
5 shall not otherwise apply; and

6 (B) the 8-hour national primary ambient  
7 air quality standard for ozone in effect as of  
8 January 1, 2011, shall continue to apply.

9 (b) LOCAL ADVISORY COMMITTEES.—

10 (1) ESTABLISHMENT AND APPLICABILITY.—

11 Subsection (a) applies with respect to a covered ex-  
12 treme ozone nonattainment area only if the gov-  
13 erning board of the responsible local air agency  
14 agrees to establish, in accordance with this sub-  
15 section, a local advisory committee to study the fea-  
16 sibility of compliance in such area with a rule de-  
17 scribed in subsection (a)(1).

18 (2) MEMBERS.—Each local advisory committee  
19 under this subsection shall be composed of the fol-  
20 lowing members, to be appointed by the governing  
21 board of the responsible local air agency:

22 (A) A representative of the governing  
23 board of the responsible local air agency.

24 (B) A local representative of the energy in-  
25 dustry.

1 (C) A local representative of the agri-  
2 culture industry.

3 (D) A local representative of the manufac-  
4 turing and processing industry.

5 (E) A local representative of the transpor-  
6 tation industry.

7 (F) A local representative of local govern-  
8 ment.

9 (G) A local representative of the health  
10 care industry.

11 (H) A local environmental justice rep-  
12 resentative.

13 (3) STUDY.—

14 (A) FEASIBILITY OF COMPLIANCE WITH  
15 RULE.—Each local advisory committee under  
16 this subsection shall conduct a study on the  
17 feasibility of compliance in the applicable cov-  
18 ered extreme ozone nonattainment area with a  
19 rule described in subsection (a)(1), taking into  
20 account—

21 (i) topography of the area;

22 (ii) weather in the area;

23 (iii) foreign sources of pollution (both  
24 stationary and mobile) that cause ozone  
25 formation in the area;

1 (iv) pass-through traffic and its im-  
2 pact on ozone formation in the area;

3 (v) exceptional events in the area;

4 (vi) current and future technologies  
5 needed to bring the area into compliance  
6 with the rule; and

7 (vii) natural ozone background levels  
8 in the area.

9 (B) COSTS OF COMPLIANCE WITH RULE.—

10 Each study described in subparagraph (A) shall  
11 address the potential adverse employment im-  
12 pacts of, and the costs of compliance with, a  
13 rule described in subsection (a)(1) for local  
14 businesses, agriculture operations, and residents  
15 in the applicable covered extreme ozone non-  
16 attainment area.

17 (4) REPORT.—Not later than 5 years after a  
18 rule described in subsection (a)(1) is promulgated as  
19 final—

20 (A) each local advisory committee under  
21 this subsection shall submit to the governing  
22 board of the responsible local air agency a re-  
23 port on the results of the study by the com-  
24 mittee under paragraph (3), including any find-

1           ings and recommendations of the committee;  
2           and

3                   (B) such governing board shall imme-  
4           diately submit such report, without change, to  
5           the Congress and the Administrator.

6 **SEC. 4. DEFINITIONS.**

7       In this Act:

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

11          (2) CONTROL.—The term “control” has the  
12      meaning given to such term for purposes of section  
13      172(e) of the Clean Air Act (42 U.S.C. 7502(e)) and  
14      includes any fee or penalty under section 185 of  
15      such Act (42 U.S.C. 7511d).

16          (3) COVERED EXTREME OZONE NONATTAIN-  
17      MENT AREA.—The term “covered extreme ozone  
18      nonattainment area” means a nonattainment area  
19      for ozone classified as extreme as of January 1,  
20      2011, pursuant to the 8-hour national primary am-  
21      bient air quality standard for ozone promulgated on  
22      July 18, 1997 (62 Fed. Reg. 38856).

23          (4) EXCEPTIONAL EVENT.—The term “excep-  
24      tional event” has the meaning given such term in

1 section 319(b) of the Clean Air Act (42 U.S.C.  
2 7619(b)).

3 (5) RESPONSIBLE LOCAL AIR AGENCY.—The  
4 term “responsible local air agency” means the local  
5 air district or other local government agency or au-  
6 thority with responsibility for enforcing requirements  
7 relating to the prevention and regulation of air pol-  
8 lution for the area involved.

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