

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5296

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2010

Mr. MCNERNEY (for himself, Mr. COSTA, and Mr. CARDOZA) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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,*

3       **SECTION 1. SHORT TITLE.**

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

6       **SEC. 2. PURPOSE.**

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

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

3           (2) may apply for grants authorized for the  
4 purpose of replacing or retrofitting polluting vehicles  
5 or engines (or both vehicles and engines) in order to  
6 improve the health of the population living in the  
7 zones.

8 **SEC. 3. FINDINGS.**

9 Congress finds that—

10           (1) the San Joaquin Valley faces serious air  
11 quality challenges that impact the development,  
12 health, and economy of the Valley;

13           (2) the Valley emits approximately 624 tons of  
14 nitrogen oxides per day, and attainment of the 1997  
15 federally mandated 8-hour ozone standard under the  
16 Clean Air Act requires emissions of not more than  
17 160 tons of oxides of nitrogen per day;

18           (3) the Valley does not attain the federally  
19 mandated standard for PM<sub>2.5</sub>;

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

24           (5) approximately 460 residents of the Valley  
25 die earlier than they otherwise would due to elevated

1 ozone levels, and Valley residents experience 23,300  
2 asthma attacks per year, a rate that equals 3 times  
3 the State average and 5 times the national average;

4 (6) 1 in 5 children residing in the Valley have  
5 been diagnosed with asthma;

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

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

10 (9) the Federal Government must partner with  
11 the Valley and the State to address air quality,  
12 health, and economic development for the residents  
13 of the Valley through the designation of the Valley  
14 as air quality empowerment zone that is eligible for  
15 Federal grants and technical assistance.

16 **SEC. 4. DEFINITIONS.**

17 In this Act:

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

21 (2) AGENCY.—The term “Agency” means the  
22 Environmental Protection Agency.

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

1           (4)  $PM_{2.5}$ .—The term “ $PM_{2.5}$ ” means particu-  
2 late matter with a diameter that does not exceed 2.5  
3 micrometers.

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

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

10 **SEC. 5. AIR QUALITY EMPOWERMENT ZONE DESIGNATION**  
11 **PROCEDURES.**

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

16           (b) PERIOD FOR WHICH DESIGNATION IS IN EF-  
17 FECT.—

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

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

24                   (B) the date on which the Administrator  
25 revokes the designation.

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

6                   (A) has been designated as being in attain-  
7                   ment with the national ambient air quality  
8                   standard for PM<sub>2.5</sub> and ozone promulgated  
9                   under the Clean Air Act; or

10                   (B) is not complying substantially with, or  
11                   fails to make progress in achieving the goals of,  
12                   the strategic plan.

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

15                   (1) the area is nominated for designation by the  
16                   air pollution control district with jurisdiction over  
17                   the area;

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

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

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

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

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

5                   (A) describes—

6                           (i) the process by which the nomi-  
7                           nated area is a full partner in the process  
8                           of developing and implementing the plan;  
9                           and

10                           (ii) the extent to which local institu-  
11                           tions and organizations have contributed to  
12                           the planning process;

13                   (B) identifies—

14                           (i) the amount of State, local, and pri-  
15                           vate resources that will be available for the  
16                           nominated area; and

17                           (ii) the private/public partnerships to  
18                           be used (which may include participation  
19                           by, and cooperation with, institutions of  
20                           higher education, medical centers, and  
21                           other private and public entities);

22                   (C) identifies the funding requested under  
23                   any Federal program in support of the purposes  
24                   of this Act;

1 (D) identifies baselines, methods, and  
2 benchmarks for measuring the success of car-  
3 rying out the strategic plan; and

4 (E) includes such other information as  
5 may be required by the Administrator.

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

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

10 (1) NONATTAINMENT.—The nominated area  
11 has been designated as being—

12 (A) in extreme nonattainment of the 8-  
13 hour ozone national ambient air quality stand-  
14 ard promulgated by the Administrator under  
15 the Clean Air Act; and

16 (B) in nonattainment of national ambient  
17 air quality standard for PM<sub>2.5</sub> promulgated by  
18 the Administrator under that Act.

19 (2) AGRICULTURAL SOURCES.—The nominated  
20 area has—

21 (A) emissions of oxides of nitrogen from  
22 farm equipment of at least 30 tons per day in  
23 calendar year 2010; or

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

4 (3) AIR QUALITY-RELATED HEALTH EF-  
5 FECTS.—As of the date of nomination, the nomi-  
6 nated area meets or exceeds the national average per  
7 capita incidence of asthma.

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

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

15 **SEC. 7. ELIGIBLE GRANT APPLICANTS.**

16 Any air pollution control district or other local gov-  
17 ernmental entity authorized to regulate air quality in a  
18 State under the Clean Air Act may apply for a grant  
19 under this Act.

20 **SEC. 8. AUTHORIZATION OF AIR AND HEALTH EMPOWER-**  
21 **MENT GRANTS.**

22 (a) ELIGIBILITY.—

23 (1) IN GENERAL.—Each area designated as an  
24 air and health quality empowerment zone under sec-



1        tion 5(a) shall be eligible to receive 1 or more grants  
2        under this section.

3            (2) AMOUNT OF GRANTS.—The amount of each  
4        grant awarded to a designated air and health quality  
5        empowerment zone shall be determined by the Ad-  
6        ministrator based upon a review of—

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

9            (B) the needs set forth in the applications  
10       by those designated as beneficiaries.

11          (3) TIMING OF GRANTS.—With respect to each  
12       designated air and health quality empowerment  
13       zone, the Administrator shall make—

14          (A) a grant under this section to each such  
15       zone on the date of designation of the zone  
16       under section 5(a); and

17          (B) the grant under this section to each  
18       such zone available on the first day of the first  
19       fiscal year that begins after the date of designa-  
20       tion of the zone.

21          (4) OVERSIGHT OF GRANTS.—The air pollution  
22       control district or other local government entity au-  
23       thorized to regulate air quality in an area designated  
24       as an air and health safety empowerment zone under

1 section 5(a) shall oversee the use of any grant funds  
2 provided to the zone under this section.

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

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

8 (2) in accordance with the strategic plan for the  
9 zone; and

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

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

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