

# Calendar No. 1078

110TH CONGRESS  
2D SESSION

# S. 3565

[Report No. 110-500]

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 SENATE OF THE UNITED STATES

SEPTEMBER 24 (legislative day, SEPTEMBER 17), 2008

Mrs. BOXER, from the Committee on Environment and Public Works, reported the following original bill; which was read twice and placed on the calendar

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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 2008”.

1 **SEC. 2. PURPOSE.**

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

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

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

11 **SEC. 3. FINDINGS.**

12 Congress finds that—

13 (1) the San Joaquin Valley faces serious air  
14 quality challenges that impact the development,  
15 health, and economy of the Valley;

16 (2) the Valley emits approximately 624 tons of  
17 nitrogen oxides per day, and attainment of the fed-  
18 erally mandated 8-hour ozone standard under the  
19 Clean Air Act requires emissions of not more than  
20 160 tons of oxides of nitrogen per day;

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

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

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

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

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

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

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

18 **SEC. 4. DEFINITIONS.**

19 In this Act:

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

23           (2) AGENCY.—The term “Agency” means the  
24 Environmental Protection Agency.

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

4           (4) PM<sub>2.5</sub>.—The term “PM<sub>2.5</sub>” means particu-  
5 late matter with a diameter that does not exceed 2.5  
6 micrometers.

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

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

13 **SEC. 5. AIR QUALITY EMPOWERMENT ZONE DESIGNATION**  
14 **PROCEDURES.**

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

19           (b) PERIOD FOR WHICH DESIGNATION IS IN EF-  
20 FECT.—

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

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

3 (B) the date on which the Administrator  
4 revokes the designation.

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

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

14 (B) is not complying substantially with, or  
15 fails to make progress in achieving the goals of,  
16 the strategic plan.

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

19 (1) the area is nominated for designation by the  
20 air pollution control district with jurisdiction over  
21 the area;

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

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

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

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

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

9           (A) describes—

10           (i) the process by which the nomi-  
11           nated area is a full partner in the process  
12           of developing and implementing the plan;  
13           and

14           (ii) the extent to which local institu-  
15           tions and organizations have contributed to  
16           the planning process;

17           (B) identifies—

18           (i) the amount of State, local, and pri-  
19           vate resources that will be available for the  
20           nominated area; and

21           (ii) the private/public partnerships to  
22           be used (which may include participation  
23           by, and cooperation with, institutions of  
24           higher education, medical centers, and  
25           other private and public entities);

1 (C) identifies the funding requested under  
2 any Federal program in support of the purposes  
3 of this Act;

4 (D) identifies baselines, methods, and  
5 benchmarks for measuring the success of car-  
6 rying out the strategic plan; and

7 (E) includes such other information as  
8 may be required by the Administrator.

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

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

13 (1) NONATTAINMENT.—The nominated area  
14 has been designated as being—

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

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

22 (2) AGRICULTURAL SOURCES.—The nominated  
23 area has—

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

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

7 (3) AIR-RELATED HEALTH EFFECTS.—As of  
8 the date of nomination, the nominated area—

9 (A) meets or exceeds the national average  
10 per capita incidence of asthma; and

11 (B) meets or exceeds the national average  
12 of school days missed due to the health impact  
13 of elevated ozone levels.

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

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

21 **SEC. 7. ELIGIBLE GRANT APPLICANTS.**

22 Any air pollution control district or other local gov-  
23 ernmental entity authorized to regulate air quality in a  
24 State under the Clean Air Act may apply for a grant  
25 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 2009 through 2013.



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