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### AIR AND HEALTH QUALITY EMPOWERMENT ZONE DESIGNATION ACT OF 2010

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JUNE 29, 2010.—Ordered to be printed  
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Mrs. BOXER, from the Committee on Environment and Public  
Works, submitted the following

### R E P O R T

[To accompany S. 3373]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 3373) 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, reports favorably thereon, and recommends that the bill do pass.

#### PURPOSES OF THE LEGISLATION

The purpose of this legislation is to help the most heavily polluted areas of the country, which also experience high levels of unemployment, address the health and economic difficulties that they face. This legislation provides grants to areas with some of the worst air pollution problems in the nation to increase the use of modern pollution controls by retrofitting or replacing heavily-polluting vehicles and engines.

#### GENERAL STATEMENT AND BACKGROUND

According to the Environmental Protection Agency, both fine particulate matter pollution (PM2.5) and ozone (“smog”) are serious threats to public health. The Environmental Protection Agency recognizes that due to small size of PM2.5 pollution, it can penetrate deeply into the lungs of people where it can accumulate. The Agency also acknowledges that epidemiological studies have shown a significant association between elevated levels of PM2.5 pollution

and health effects, including asthma attacks, aggravation of respiratory and cardiovascular disease, decreased lung function, lung disease, certain cardiovascular problems such as heart attacks, and premature death.

The Environmental Protection Agency has also described a number of serious health effects related to ozone pollution. The Agency recognizes that ozone pollution increases asthma attacks, reduces lung function, increases susceptibility to respiratory infection, inflames and damages cells in the lungs, aggravates chronic lung diseases such as emphysema and bronchitis, and increases the risk of premature death.

Smog and PM2.5 are widespread forms of pollution. According to the Environmental Protection Agency, more than a dozen states have counties with areas that are out of attainment with PM2.5 standards, including Pennsylvania, Alabama, Ohio, West Virginia, California, Michigan, Alaska, Oregon, Tennessee, Utah, Idaho, Wisconsin, New York, New Jersey, Connecticut, Arizona and Delaware. The Agency reports that more than 70 million people live in these counties.

The Environmental Protection Agency also reports that more than twenty states have counties with areas that are out of attainment with ozone standards, including New York, Michigan, California, Georgia, Maryland, Louisiana, Texas, Massachusetts, New Hampshire, Rhode Island, North Carolina, South Carolina, Illinois, Indiana, Ohio, Kentucky, Colorado, Wisconsin, Connecticut, Tennessee, Nevada, New Jersey, Pennsylvania, Delaware, Arizona, Missouri, Virginia, and the District of Columbia. The Agency reports that more than 121 million people live in these counties.

This basic intent of this bill is to help, now and in the future, the most heavily polluted areas of the country that also suffer from high levels of unemployment to reduce the health and economic impacts of nonattainment with federally mandated air quality standards. One such area that is currently experiencing these types of harmful conditions is the San Joaquin Valley in California. Elevated ozone and PM2.5 levels in the Valley contribute to asthma rates that are 3 times the State average and 5 times the national average. Nonattainment of the Clean Air Act standards costs the Valley more than \$3 billion annually.

This legislation would allow areas that experience these conditions to become eligible for designation as air and health quality empowerment zones, at which point they could receive federal grants for the purpose of replacing or retrofitting polluting vehicles and engines. This would improve the health of the people living in such zones.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 provides that the Act may be cited as the “Air and Health Quality Empowerment Zone Designation Act of 2008”.

##### *Section 2. Purpose*

Section 2 states that the purpose of the Act is to establish criteria for the designation of specific geographic areas as air and health quality empowerment zones that may apply for grants au-

thorized for the purpose of replacing or retrofitting polluting vehicles or engines in order to improve the health of the population living in the zones.

### *Section 3. Findings*

Section 3 contains the types of factors that are relevant to being eligible as an air and health quality empowerment zone by using a description of the conditions that currently exist in the San Joaquin Valley. The findings describe the serious air quality challenges that the Valley faces, which impact the health, development, and economy of the area. The section also notes the benefits that could accrue from federal assistance that helps to address serious air pollution problems through grants and technical assistance.

### *Section 4. Definitions*

Section 4 defines the term “Administrator” to mean the Administrator of the Environmental Protection Agency (EPA). The term “Agency” is defined to mean the EPA. Section 4 defines the term “Clean Air Act” to mean the Clean Air Act (42 U.S.C. 7401 et seq.). The term “PM2.5” is defined to mean particulate matter with a diameter that does not exceed 2.5 micrometers. The term “Strategic Plan” is defined to mean, with respect to an area, the plan contained in the application for designation of the area under Section 5 of the Act. Finally, Section 4 defines the term “Valley” to mean the San Joaquin Valley, California.

### *Section 5. Air Quality Empowerment Zone designation procedures*

Section 5 provides that the Administrator of EPA may designate areas nominated for designation under this section as air and health quality empowerment zones. The designation would remain in effect for 10 years or until the Administrator revokes the designation. The Administrator may revoke the designation if the Administrator determines that the local air pollution district in which the designated area is located has been designated as being in attainment with the PM2.5 and ozone standards under the Clean Air Act, or is not complying substantially with, or fails to make progress in achieving the goals of, the strategic plan.

No area may be designated an air and health quality empowerment zone unless the area is nominated by the air pollution control district with jurisdiction over the area, the air pollution control district provides written assurances to the Administrator that the strategic plan will be implemented, and the Administrator determines that the information provided is reasonably accurate. The Application for designation must demonstrate that the area meets the eligibility criteria in section 6 of the Act, and must include a strategic plan for accomplishing the purposes of the Act. The strategic plan must describe: the process by which the area is a full partner in developing and implementing the plan; the extent to which local institutions and organizations have contributed to the planning process; the State, local, and private resources that will be available and the public/private partnerships that will be used; the funding requested under any Federal program in support of the Act; baselines, methods, and benchmarks for measuring success; and other information that may be required by the Administrator.

*Section 6. Eligibility criteria*

Section 6 provides that a nominated area is eligible only if the area: (1) has been designated as being in extreme nonattainment of the 8-hour ozone national ambient air quality standard (NAAQS) and the NAAQS for PM<sub>2.5</sub>; (2) the nominated area has emissions of nitrogen oxides from farm equipment of at least 30 tons per day or emissions of volatile organic compounds from farming operations of at least 40 tons per day in calendar year 2010; (3) the area meets or exceeds the national average in asthma; (4) the area experiences unemployment rates higher than the national average; and (5) the State or local government will match at least 50% of the funds provided by the Federal Government under the Act.

*Section 7. Eligible grant applicants*

Section 7 provides that any air pollution control district or other local government entity authorized to regulate air quality in a State under the Clean Air Act may apply for a grant under the Act.

*Section 8. Authorization of Air and Health Empowerment grants*

Section 8 authorizes grants to areas designated air and health quality empowerment zones under the Act, in an amount determined by the Administrator based on need and the information provided in the application.

Section 8 requires the Administrator to make a grant to each designated air and health quality empowerment zone on the date of the designation and again on the first day of the first fiscal year that begins after the date of the designation.

Section 8 requires the air pollution control district or other local government entity with Clean Air Act jurisdiction over the empowerment zone to oversee the use of the grant funds. The grant funds can be used only to carry out activities that achieve the purposes of the Act, in accordance with the strategic plan, and for activities that benefit the residents of the zone through improved air quality and health.

Section 8 authorizes the appropriation to the Administrator of \$20,000,000 for each of fiscal years 2011 through 2015 to provide grants under this Act.

LEGISLATIVE HISTORY

This legislation was sponsored by Senator Boxer. The Committee on Environment and Public Works met on May 20, 2010, when it was ordered favorably reported by voice vote.

ROLLCALL VOTES

There were no rollcall votes. Senators Inhofe, Barrasso and Vitter were recorded as voting no. The Committee on Environment and Public Works met to consider this legislation on May 20, 2010. A quorum of the Committee being present, it was reported favorably without amendment by a voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b)(2) of rule XXVI of the Standing Rules of the Senate, the Committee states that there are not expected to be regulatory costs to private entities under this legisla-

tion, which provides grants to retrofit or replace polluting vehicles or engines.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the Committee finds that this legislation would impose no Federal intergovernmental unfunded mandates on State, local or tribal governments, and does not impose private sector mandates.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 24, 2010.

Hon. BARBARA BOXER,  
*Chairman, Committee on Environment and Public Works,*  
*U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3373, the Air and Health Quality Empowerment Zone Designation Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*S. 3373—Air and Health Quality Empowerment Zone Designation Act of 2010*

Summary: S. 3373 would authorize the Environmental Protection Agency (EPA) to create air and health quality empowerment zones in various regions of the country. Certain entities within those zones would then be eligible for federal grants to fund the replacement or retrofitting of vehicles or engines to reduce pollution. This legislation also would authorize the appropriation of \$20 million a year over the 2011–2015 period for such grants.

Assuming appropriation of the authorized funds, CBO estimates that implementing S. 3373 would cost \$82 million over the 2011–2015 period and \$18 million after 2015.

Pay-as-you-go procedures would not apply to this legislation because it would not affect direct spending or revenues.

S. 3373 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3373 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level .....	20	20	20	20	20	100
Estimated Outlays .....	8	16	18	20	20	82

Basis of estimate: CBO assumes that S. 3373 will be enacted near the beginning of fiscal year 2011 and that the specified amounts will be appropriated in each year starting in 2011. Estimated outlays are based on historical spending patterns for similar programs.

Intergovernmental and private-sector impact: S. 3373 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires the committee to publish changes in existing law made by the bill as reported. Passage of this bill will make no changes to existing law.