



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT



HEALTHY AIR LIVING™

BOARD OF SUPERVISORS

2011 JUN -6 P 12: 36

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Seyed Sadredin
Executive Director
Air Pollution Control Officer

Northern Region Office
4800 Enterprise Way
Modesto, CA 95356-8718
(209) 557-6400 • FAX (209) 557-6475

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726-0244
(559) 230-6000 • FAX (559) 230-6061

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308-9725
(661) 392-5500 • FAX (661) 392-5585

June 1, 2011

Dick Monteith
Stanislaus County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, CA 95354

Dear Supervisor Monteith:

On behalf of the Governing Board of the San Joaquin Valley Air Pollution Control District I would like to request your support for H.R. 1582 "Common Sense Ozone Regulation Act" by Congressman Kevin McCarthy. This legislation will repeal the current federal non-attainment penalties that are imposed on Valley residents and businesses. It will also require a feasibility study to be conducted and submitted to Congress before the Valley is subjected to a new ozone standard which the Federal Environmental Protection Agency is about to publish in July, 2011.

Attached for your consideration is a letter in support of this important legislation (Attachment A). Also, for additional background information, I have attached a copy of the staff report to the District Governing Board concerning this legislation (Attachment B). If you have any questions, please feel free to contact me at (559) 230-6036.

Sincerely,

Seyed Sadredin
Executive Director/APCO

Attachments

Attachment A

June 1, 2011

The Honorable Kevin McCarthy
326 Cannon Building
Washington, DC 20515

RE: H.R. 1582-Support

Dear Congressman McCarthy:

The _____ County Board of Supervisors supports H.R. 1582 "Common Sense Ozone Regulation Act".

We believe that the federal non-attainment penalties which are currently imposed on Valley residents and businesses are unfair and unjustified. Despite significant challenges, air quality in the San Joaquin Valley has improved dramatically. These improvements are largely the results of major investment and sacrifice by Valley businesses and residents. Since 1980, stationary source emissions, which are controlled by the local air pollution control district, have been reduced by more than 80%. Although significant challenges remain, this past year, the Valley experienced its cleanest winter and summer in recent history.

We also believe that a common sense approach is warranted in implementing the new ambient air quality standards that the Federal Environmental Protection Agency (EPA) is about to publish. H.R. 1582 will in no way delay clean air efforts in the San Joaquin Valley and will not remove EPA's authority to establish a new 8-hour ozone standard. As an "extreme" non-attainment area for the current standard, the Valley is required to adopt all feasible control measures, and is working to develop advanced, yet currently unavailable, technologies to obtain additional reductions. In assessing the achievability of the new standard it is important to consider the fact that the proposed new standard encroaches on the naturally occurring, or background, ozone concentrations in the Valley. In promulgating feasible implementation strategies we must also be cognizant of the fact that many areas in the San Joaquin Valley suffer from chronic double-digit unemployment rates which are now nearing 20%.

We thank you for introducing this important legislation.

Sincerely,

Attachment B



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www.valleyair.org

DATE: May 19, 2011

TO: SJVUAPCD Governing Board

FROM: Seyed Sadredin, Executive Director/APCO
Project Coordinator: Tom Jordan

RE: SUPPORT H.R. 1582 "COMMON SENSE OZONE
REGULATION ACT"

RECOMMENDATION:

Adopt a position in support of H.R. 1582 "Commonsense Ozone Regulation Act".

BACKGROUND:

Congressman Kevin McCarthy, the Majority Whip in the United States House of Representatives, has introduced H.R. 1582 "Commonsense Ozone Regulation Act" with the following provisions:

- Removes the applicability of the now revoked 1-hour ozone standard in areas that have been designated as "extreme" non-attainment for the new, more health protective, 8-hour ozone standard.
- Establishes a local advisory committee made up of representatives from the air district, industry, local government, health care industry, and environmental justice community. The local advisory committee is charged with conducting a study on the feasibility of compliance with the new standard in covered "extreme" non-attainment areas. The advisory committee has up to five years to complete their report and submit it to Congress through the air district. The study shall take into account topography, meteorology, pollution transport, pass through traffic, exceptional events, current and future available technologies, and natural ozone background in the area.

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SUPPORT H.R. 1582 "COMMON SENSE OZONE REGULATION ACT"
May 19, 2011

- Retains EPA's authority to establish a new 8-hour ozone standard, but postpones the application of the new standard in areas currently classified as "extreme" non-attainment for the existing 8-hour ozone standard until six months after the advisory committee report is submitted to Congress.

DISCUSSION:

By removing the applicability of the now revoked 1-hour ozone standard, the proposed legislation will revoke the applicability of the Section 185 non-attainment penalties. This is consistent with the District's Legislative Platform adopted by your Board in January, 2011 which calls for the repeal of Section 185.

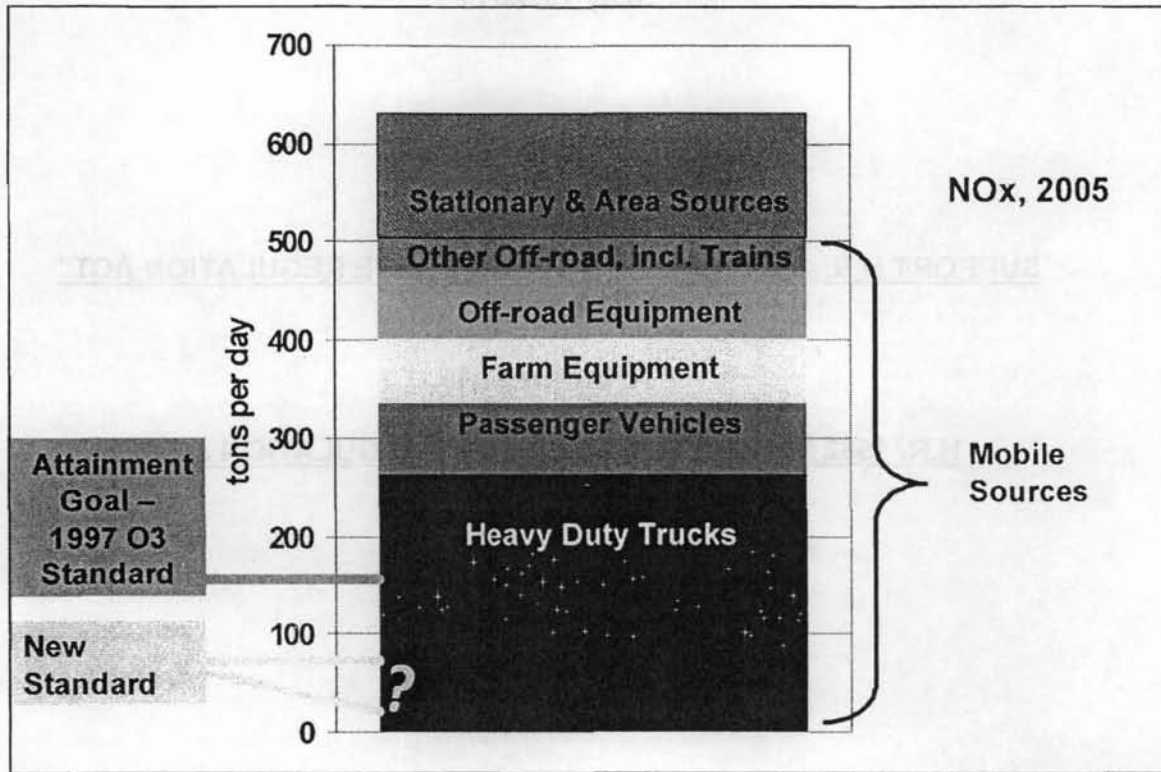
In relation to the establishment of the new 8-hour ozone standard, the District supports establishment of a health-protective standard that is supported by sound science. The range being contemplated by EPA for the new ozone standard encroaches on the background ozone concentration in the San Joaquin Valley. It is estimated that the San Joaquin Valley will experience up to 162 days over the proposed new standard (Please see *Figure 1* for more information regarding Valley ozone exceedances). Our initial estimate indicates that meeting the new standard will require another 90% reduction in emissions on top of the 80% reductions needed to meet the current standard. Having already reduced emissions by 80%, achieving the reductions needed to meet the new standard will require zero emissions technology or an outright ban on fossil fuel combustion (Please see *Figure 2* for more information regarding Valley NOx emissions). The Valley is currently classified as "extreme" non-attainment for the existing ozone standard, which means that technology does not exist to meet even the current less stringent standard. In light of these difficult circumstances, the work of the local advisory committee can be immensely valuable in crafting workable strategies to achieve real improvements in public health. It is worth noting that with the District currently being classified as an "extreme" non-attainment area for the current standard, there will be no roll back of clean air measures during the study period.

Figure 1: 8-Hour Ozone Standard Exceedances

County	Exceedances			
	1997: 84 ppb	2008: 75 ppb	New Proposed Standard	
			70 ppb	60 ppb
Fresno	29	54	74	118
Kern	51	83	108	151
Kings	5	37	56	103
Madera	4	13	26	67
Merced	0	15	35	77
San Joaquin	1	8	19	47
Stanislaus	5	18	32	71
Tulare	45	83	103	145
San Joaquin Valley	68	99	119	162

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Figure 2: San Joaquin Valley NOx Emissions and Need for Emissions Reductions



FISCAL IMPACT:

Approval of this item will have no fiscal impact upon the District's budget.

Attachment:
H.R. 1582 "COMMON SENSE OZONE REGULATION ACT" (7 pages)

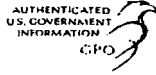
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May 19, 2011

San Joaquin Valley Unified Air Pollution Control District
Meeting of the Governing Board
May 19, 2011

SUPPORT H.R. 1582 "COMMON SENSE OZONE REGULATION ACT"

Attachment:

H.R. 1582 "COMMON SENSE OZONE REGULATION ACT"
(7 pages)



1

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.

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

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;

5

- 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(c)) 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

7

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.

○