

105TH CONGRESS
2D SESSION

H. R. 3505

To amend the Clean Air Act to provide for the implementation of the revised ozone and particulate matter standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1998

Mr. DOOLEY of California (for himself and Mr. BOYD) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Clean Air Act to provide for the implementation of the revised ozone and particulate matter standards, 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 “Revised Ozone and
5 Particulate Matter Standards Implementation Act of
6 1998”.

7 **SEC. 2. IMPLEMENTATION OF 1997 REVISED OZONE AND**
8 **PARTICULATE MATTER STANDARDS.**

9 The Clean Air Act is amended by adding the follow-
10 ing new subpart at the end of part D of title I:

1 **“Subpart 7—Implementation of 1997 Revised Ozone**
2 **and Particulate Matter Standards**

3 **“SEC. 194. FINDINGS AND GOALS.**

4 “(a) FINDINGS.—The Congress finds that—

5 “(1) The Nation’s air quality has been improv-
6 ing since 1970 for all criteria air pollutants except
7 nitrogen oxides, a key ingredient of smog.

8 “(2) On July 18, 1997, the Administrator pro-
9 mulgated revised national ambient air quality stand-
10 ards for particulate matter and ground level ozone
11 to provide further public health benefits from re-
12 duced pollution. Concurrent with the promulgation
13 of the new standards, the Administration published
14 a plan for implementation of those new standards,
15 along with a message from the President endorsing
16 that plan.

17 “(3) Under current law, many areas may not
18 achieve the revised standards for as long as 20
19 years, and some areas may take even longer.

20 “(4) Without changes in current law, implemen-
21 tation of the revised standards may result in unnec-
22 essary costs and delays.

23 “(5) Control of pollutants transported across
24 jurisdictional lines has not been adequately ad-
25 dressed under current law.

1 “(b) GOALS.—The Congress concurs with the follow-
2 ing goals of the plan developed by the Administrator to
3 implement the national ambient air quality stands for
4 ozone and particulate matter promulgated on July 18,
5 1997:

6 “(1) Attain the standards and protect public
7 health without sacrificing economic growth.

8 “(2) Maintain the progress currently being
9 made toward cleaner air and respect the agreements
10 and technological progress already made by commu-
11 nities and businesses to pursue clean air.

12 “(3) Reward State and local governments and
13 businesses that take early action to reduce air pollu-
14 tion levels through cost-effective approaches.

15 “(4) Respond to the fact that pollution can
16 travel hundreds of miles and cross many State lines.

17 “(5) Work with the States to develop control
18 programs which employ regulatory flexibility to mini-
19 mize economic impacts on businesses large and small
20 to the greatest possible degree consistent with public
21 health protection.

22 “(6) Minimize planning and regulatory burdens
23 for State and local governments and businesses
24 where air quality problems are regional, not local, in
25 nature.

1 “(7) Ensure that air quality planning and relat-
2 ed Federal, State, and local planning are coordi-
3 nated.

4 “(8) Recognize the substantial lead time nec-
5 essary for State and local governments and busi-
6 nesses to plan for and meet standards for a new in-
7 dicator of PM.

8 **“SEC. 194A. DEFINITIONS.**

9 “For purposes of this subpart:

10 “(1) The term ‘cap and trade’ means a pro-
11 gram that sets an overall regional limitation on pol-
12 lutant emissions, and then allows sources to trade
13 emissions credits to achieve required reductions.

14 “(2) The terms ‘1-hour standard’ and ‘1-hour
15 ozone standard’ mean the national primary ambient
16 air quality standard for ozone existing prior to the
17 revision of such standard on July 18, 1997.

18 “(3) The terms ‘8-hour standard’ and ‘8-hour
19 ozone standard’ mean the national primary and sec-
20 ondary ambient air quality standard for ozone as re-
21 vised on July 18, 1997.

22 “(4) The term ‘existing PM-10 NAAQS’ means
23 the national primary ambient air quality standard
24 for PM-10 existing prior to the revision of such
25 standard on July 18, 1997.

1 “(5) The term ‘new particulate matter stand-
2 ards’ means the national primary and secondary am-
3 bient air quality standards for PM–2.5 as promul-
4 gated on July 18, 1997.

5 **“SEC. 194B. IMPLEMENTATION OF NEW AND REVISED**
6 **OZONE AND PARTICULATE STANDARDS.**

7 “Except as specified in this subpart, all applicable re-
8 quirements of this Act regarding the implementation of
9 a revised national ambient air quality standard shall apply
10 to the 8-hour ozone standard and to the revised particu-
11 late standard.

12 **“SEC. 194C. IMPLEMENTATION OF OZONE STANDARD.**

13 “(a) PHASE-OUT OF 1-HOUR STANDARD.—(1) Upon
14 a determination by the Administrator that an area has
15 attained air quality that meets the 1-hour ozone standard,
16 the provisions of subpart 2 of part D of title I of this
17 Act shall cease to apply to that area. Within 90 days after
18 the enactment of this subpart, the Administrator shall
19 publish a notice identifying the areas that have attained
20 the 1-hour ozone standard and to which such standard will
21 cease to apply.

22 “(2) Notwithstanding section 175A, no State shall be
23 required to prepare a maintenance plan for an area that
24 has attained the 1-hour standard for ozone.

1 “(3) For each ozone nonattainment area where the
2 air quality does not, as of the date of the publication re-
3 ferred to in paragraph (1), meet the 1-hour ozone stand-
4 ard, such 1-hour standard and the provisions of subpart
5 2 shall continue to apply until the Administrator makes
6 the determination referred to in paragraph (1).

7 “(b) IMPLEMENTATION OF NEW 8-HOUR OZONE
8 STANDARD.—

9 “(1) REGIONAL NO_x STRATEGY.—Not later
10 than 6 months after the date of enactment of this
11 subpart the Administrator shall promulgate a rule
12 authorizing States to establish cap and trade pro-
13 grams to control regional transport of oxides of ni-
14 trogen (‘NO_x’). The Administrator shall allow a
15 State or States that establish such a program by
16 December 31, 1999, to extend the length of permits
17 granted under section 502(b)(5)(B) by up to two
18 years.

19 “(2) TRANSITIONAL CLASSIFICATION.—

20 “(A) AUTHORIZATION.—The Adminis-
21 trator shall provide for a special transitional
22 classification under section 172(a)(1) for areas
23 that meet the eligibility requirements of sub-
24 paragraph (B).

1 “(B) ELIGIBILITY.—Using ozone monitor-
2 ing data from calendar years 1995, 1996, and
3 1997, or later years, the Administrator, under
4 the authority of section 107(d), shall make the
5 transitional classification available to States for
6 the following areas:

7 “(i) ANY AREA ATTAINING THE 1-
8 HOUR STANDARD BY DECEMBER 31, 1999,
9 BUT NOT ATTAINING THE 8-HOUR STAND-
10 ARD BY THAT DATE AND FOR WHICH A RE-
11 GIONAL TRANSPORT STRATEGY DESCRIBED
12 IN PARAGRAPH (1) IS SUFFICIENT FOR AT-
13 TAINMENT OF THE 8-HOUR STANDARD.—
14 If, by December 31, 1999, the State sub-
15 mits an implementation plan that includes
16 control measures to achieve the emission
17 reductions required by the rules under
18 paragraph (1) regarding a regional NO_x
19 strategy.

20 “(ii) ANY AREA ATTAINING THE 1-
21 HOUR STANDARD BY DECEMBER 31, 1999,
22 BUT NOT ATTAINING THE 8-HOUR STAND-
23 ARD BY THAT DATE AND FOR WHICH A RE-
24 GIONAL TRANSPORT STRATEGY DESCRIBED
25 IN PARAGRAPH (1) IS NOT SUFFICIENT FOR

1 ATTAINMENT OF THE 8-HOUR STAND-
2 ARD.—If, by December 31, 1999, the State
3 submits an implementation plan that pro-
4 vides for emissions reductions necessary to
5 attain the 8-hour standard by the applica-
6 ble statutory deadline. In the case of areas
7 participating in, or directly affected by, a
8 regional strategy pursuant to paragraph
9 (1), such State implementation plan shall
10 provide that the additional emission reduc-
11 tions shall occur on the same time schedule
12 as applicable regional transport reductions.

13 “(C) AREAS NOT ELIGIBLE FOR TRANSI-
14 TIONAL CLASSIFICATION.—(i) An area not re-
15 quired, as of the date of the enactment of this
16 subpart, to achieve the 1-hour standard until
17 after the year 2000 shall not be eligible for
18 transitional status. For such an area, no addi-
19 tional local control measures (beyond those
20 needed to meet the requirements of subpart 2
21 or needed to implement any applicable regional
22 transport strategy under paragraph (1)) shall
23 be required to be implemented prior to the ap-
24 plicable attainment date for the 1-hour stand-
25 ard if, within 3 years of designation as a non-

1 attainment area for the 8-hour standard, the
2 State submits an implementation plan for
3 achieving the 8-hour standard in such area by
4 the attainment date for such 8-hour standard.
5 Such a plan may rely substantially on measures
6 needed to attain the 1-hour standard. Except as
7 provided in clause (ii), nonattainment areas
8 that do not attain the 1-hour standard by their
9 attainment date shall continue to comply with
10 the requirements of subpart 2 until such stand-
11 ard is attained.

12 “(ii) At any time after December 31, 2000,
13 upon petition from the Governor of any State
14 containing an area referred to in clause (i), the
15 Administrator shall allow that area to be sub-
16 ject to the 8-hour ozone standard in lieu of the
17 1-hour standard.

18 “(D) BENEFIT OF DESIGNATION.—The
19 Administrator may, on a case by case basis, ex-
20 empt areas classified as ‘transitional’ from one
21 or more specific requirements of part D relating
22 to ozone, as the Administrator deems appro-
23 priate and consistent with the goal of meeting
24 statutory deadlines for achieving the national
25 primary ambient air quality standard for ozone.

1 No such exemption may be granted unless the
2 Administrator and the State agree on a means
3 to measure (by means of benchmarks, sched-
4 ules, and other means) whether sufficient
5 progress is being made toward such goal. The
6 Administrator shall require sufficient reporting
7 to demonstrate that the terms of such agree-
8 ment with the State are being complied with,
9 and if the Administrator determines that such
10 terms are not being complied with, the Admin-
11 istrator shall remove such exemption.

12 **“SEC. 194D. IMPLEMENTATION OF NEW PARTICULATE MAT-**
13 **TER STANDARDS.**

14 “(a) IMPLEMENTATION OF REVISED PM-10
15 NAAQS.—(1) For each area that has not attained the ex-
16 isting PM-10 NAAQS as of July 18, 1997, the existing
17 PM-10 NAAQS shall remain in effect and the new partic-
18 ulate matter standards shall not apply until the Adminis-
19 trator has completed a rulemaking for the existing PM-
20 10 NAAQS under section 172(e) (relating to backsliding).
21 The Administrator shall issue the final rule for such pur-
22 poses no later than December 31, 1998.

23 “(2) For an area that has attained the existing PM-
24 10 NAAQS, the existing PM-10 NAAQS and any applica-
25 ble State implementation plan (including a maintenance

1 plan) for the PM-10 NAAQS shall remain in effect until
2 the State submits under section 110, and the Adminis-
3 trator approves, an implementation plan for the attain-
4 ment and maintenance of the new particulate matter
5 standards. Upon approval of such implementation plan,
6 the existing PM-10 NAAQS and the State plan imple-
7 menting the existing PM-10 NAAQS shall cease to apply
8 to such area.

9 “(b) IMPLEMENTATION OF NEW PM-2.5 NAAQS.—

10 “(1) MONITORING.—(A) The Administrator
11 shall consult with the National Academy of Sciences,
12 States, and affected stakeholders to design and es-
13 tablish a comprehensive monitoring network to de-
14 termine ambient fine particle concentrations across
15 the country.

16 “(B) The monitoring network shall be designed
17 to collect data at a sufficient level of detail so as to
18 help determine, at a minimum, the following: which
19 areas do not meet the new air quality standards, the
20 major sources and constituents of PM-2.5 in various
21 regions, and potential cost-effective means of achiev-
22 ing the new particulate matter standards. All mon-
23 itors must provide, at a minimum, for limited specia-
24 tion, or analysis of the chemical composition, of the
25 particles measured. Immediately upon enactment of

1 this Act, the Administrator shall request the Na-
2 tional Academy of Sciences to make a recommenda-
3 tion, as soon as possible, as to what proportion of
4 the monitors should provide for a more comprehen-
5 sive speciation of the particles.

6 “(2) EXPEDITED DEPLOYMENT OF A NET-
7 WORK.—(A) The Administrator shall work coopera-
8 tively with the States, local governments, tribes, and
9 other parties to deploy a nationally consistent mon-
10 itoring network to measure and analyze PM–2.5.

11 “(B) The Administrator shall fund 100 percent
12 of the costs for the purchase and installation of such
13 monitors, but any State may expedite deployment of
14 monitors in their state by advancing funding for
15 such purposes.

16 “(C) The Administrator shall coordinate the
17 analysis of particles collected at the monitors to de-
18 termine their chemical composition.

19 “(3) INCENTIVES FOR EXPEDITED DEPLOY-
20 MENT.—(A) States that contribute substantially to
21 the deployment of monitors in accordance with para-
22 graph (2)(B) shall not be required to implement the
23 standards for PM–2.5 earlier than would have been
24 required in the absence of any contribution toward
25 early deployment of the monitoring network.

1 “(B) The Administrator shall permit States
2 which complete deployment of the monitoring system
3 by June 30, 1999, to extend the length of permits
4 granted under section 502(b)(5)(B) by up to one
5 year in addition to any extension allowable under
6 any other authority of law.

7 “(c) EXTERNAL REVIEW OF STANDARD.—(1) Imme-
8 diately following the enactment of this Act, the Adminis-
9 trator shall request the National Academy of Sciences
10 (NAS) to commence a review of the new PM–2.5 standard
11 and to recommend, as soon as possible, a research plan
12 designed to both reduce scientific uncertainties regarding
13 the appropriateness of the PM–2.5 standard and to help
14 identify the most cost-effective means of achieving it.

15 “(2) The Administrator shall request the National
16 Academy of Sciences to recommend to the Administrator,
17 by June 30, 2002, whether or not it is appropriate to re-
18 vise the PM–2.5 standard under this Act.

19 “(3) Following the receipt of the NAS recommenda-
20 tion, but not later than June 30, 2003, the Administrator
21 shall make a determination under section 109(b) as to
22 whether it is appropriate to revise the PM–2.5 standard
23 or retain the standard as promulgated on July 18, 1997.
24 The Administrator shall make such determination prior to

1 designating any area as a nonattainment area for PM-
2 2.5.

3 “(d) IMPLEMENTATION SCHEDULE.—

4 “(1) UNCLASSIFIABLE DESIGNATION.—Not
5 later than June 30, 1999, the Administrator shall
6 designate all areas of the country as unclassifiable
7 for PM-2.5. These designations shall not trigger the
8 planning or control requirements of part D of title
9 I of the Act.

10 “(2) GOVERNOR’S DESIGNATION OF NON-AT-
11 TAINMENT AREAS BASED ON AT LEAST 3 YEARS OF
12 MONITORING DATA.—Notwithstanding the deadline
13 set forth in section 107(d)(1)(A), for PM-2.5, the
14 Governor of each State shall submit to the Adminis-
15 trator the list referred to in section 107(d)(1)(A) not
16 later than 6 months after the Administrator makes
17 the determination referred to in subsection (c)(3).

18 “(3) ADMINISTRATOR’S DESIGNATION OF NON-
19 ATTAINMENT AREAS.—Notwithstanding the deadline
20 set forth in section 107(d)(1)(B), for PM-2.5, the
21 Administrator shall promulgate the designation of
22 all areas (or portions thereof) under section
23 107(d)(1)(B) not later than 18 months after the Ad-
24 ministrator makes the determination referred to in
25 subsection (c)(3).

1 “(4) STATE IMPLEMENTATION PLANS DUE.—
2 Each State in which the Administrator has des-
3 ignated a PM-2.5 nonattainment area shall submit
4 an implementation plan or plan revision meeting the
5 requirements of subpart 1 and section 110 for the
6 attainment of the PM-2.5 standard in such area.
7 Notwithstanding the deadline set forth in section
8 110(a)(1), such plan shall be submitted in accord-
9 ance with the deadlines specified in section 172(b)
10 unless extended in accordance with section 110(b).”.

11 **SEC. 3. GENERAL NONATTAINMENT PROVISIONS.**

12 (a) EARLY NAAQS COMPLIANCE BENEFITS.—Sec-
13 tion 172 of the Clean Air Act is amended by adding the
14 following at the end thereof:

15 “(f) EARLY NAAQS COMPLIANCE BENEFITS.—The
16 Administrator shall promulgate such rules as may be nec-
17 essary to permit State implementation plans for non-
18 attainment areas to reward sources of any air pollutant
19 for which a national ambient air quality standard is in
20 effect to be rewarded if the source—

21 “(1) makes significant reductions (as deter-
22 mined by the Administrator) in emissions of such air
23 pollutant below the benchmarks set by existing State
24 implementation plans; and

1 “(2) demonstrates and publicly reports consist-
2 ent achievement of said emission reductions.

3 The Administrator and the State may establish by regula-
4 tion such rewards for such superior environmental per-
5 formance as they deem acceptable, including such incen-
6 tives as a longer permit term, third party auditing privi-
7 leges, and streamlined reporting, notwithstanding any
8 other requirement of this Act, if the Administrator finds,
9 and then subsequently demonstrates over time, that the
10 net effect of the combination of the superior environmental
11 performance and any reward offered therefor results in a
12 significant reduction in risk to human health and the envi-
13 ronment relative to that posed by emission levels otherwise
14 allowable under this Act.

15 “(g) AIR QUALITY INVESTMENT PROGRAM.—The
16 Administrator shall encourage States to design market-
17 based strategies for attaining national ambient air quality
18 standards that focus on obtaining low cost reductions for
19 all sources, including such approaches as a Clean Air In-
20 vestment Fund that would allow sources facing control
21 costs per ton of pollutant higher than a prescribed upper
22 bound to pay a set annual amount per ton, to be deter-
23 mined by the Administrator, to fund cost-effective emis-
24 sions reductions from nontraditional and small sources.

1 “(h) NEW SOURCE REVIEW AND CONFORMITY RULE
2 REVISIONS.—(1) The Administrator shall revise the rules
3 under section 172(c)(5) (relating to new source review)
4 and the rules relating to conformity so that States may
5 comply with such rules with only minor revisions to their
6 applicable implementation plans in areas designated as
7 transitional for ozone under section 194C(b)(3).

8 “(2) The Administrator shall also reexamine the re-
9 quirements applicable to nonattainment areas under sec-
10 tion 172(c)(5), and shall make reasonable efforts (includ-
11 ing any necessary modification of applicable rules) to en-
12 sure fairness between ozone nonattainment areas and
13 transitional areas and between areas from which any air
14 pollutant for which a national ambient air quality stand-
15 ard is in effect, or precursor thereof, is transported and
16 the areas to which that air pollutant, or precursor, is
17 transported, including combinations of such areas that lie
18 within a single State.

19 **SEC. 4. RESEARCH.**

20 (a) PARTICULATE MATTER.—(1) The Administrator
21 of the Environmental Protection Agency, in partnership
22 with other Federal agencies, shall develop an expanded co-
23 ordinated interagency particulate matter research pro-
24 gram. In doing so, the Administrator shall give significant

1 consideration to the recommendations of the National
2 Academy of Sciences.

3 (2) The research program shall contribute to expand-
4 ing the science associated with particulate matter health
5 effects and shall develop improved monitoring methods
6 and cost-effective mitigation strategies.

7 (3) The research program shall place significant em-
8 phasis on coordinating research on health effects, biologi-
9 cal mechanism causing effects, monitoring, source-recep-
10 tor relationships, speciation of PM, identification of
11 sources, control technologies and regional transport for
12 particulate matter with corresponding research on ozone
13 and other related pollutants including regional haze.

14 (4) To assist State and local efforts in completing
15 planning requirements and reducing particulate matter air
16 pollution, the Administrator of the Environmental Protec-
17 tion Agency shall work cooperatively with the Department
18 of Agriculture, Department of Defense, Department of
19 Energy, Department of Transportation, and other affected
20 Federal agencies to refine existing, limited analytical mod-
21 els for PM-10 and to develop new reliable predictive mod-
22 els for PM-2.5.

23 (b) TROPOSPHERIC OZONE.—(1) The Administrator
24 shall enter into arrangements with the National Academy
25 of Sciences under which the National Academy will imme-

1 diately undertake a thorough review of its 1991 report Re-
2 thinking the Ozone Problem in Urban and Regional Air
3 Pollution and report to Congress no later than January
4 30, 1999, on the recommendations that continue to be rel-
5 evant to the Nation's approach to reducing tropospheric
6 ozone. The report shall also establish priorities for agency
7 and state response to recommendations.

8 (2) The Administrator of the Environmental Protec-
9 tion Agency shall continue to participate in the inter-gov-
10 ernmental public/private partnership called the North
11 American Research Strategy for Tropospheric Ozone
12 (NARSTO) that involves a coordinated effort to identify
13 and address key issues in the emissions, transport, and
14 mitigation of photochemical pollutants.

15 (3) The Administrator of the Environmental Protec-
16 tion Agency shall work in partnership with other Federal
17 agencies to address research needs on ozone health and
18 ecological effects. Significant emphasis shall be placed on
19 coordinating both health effects, monitoring, source-recep-
20 tor, and control technologies for ozone with corresponding
21 research on particulate matter and other related pollut-
22 ants subject to significant regional transport.

1 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out the provisions of this
4 Act.

○