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EPA'S PROPOSED OZONE RULE

FRIDAY, JUNE 12, 2015

House of Representatives,

Subcommittee on Energy and Power,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to call, at 10:45 a.m., in Room 2123, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Olson, Shimkus, Harper, McKinley, Griffith, Johnson, Long, Ellmers, Flores, Mullin, Hudson, Upton (ex officio), McNerney, Green, Capps, Castor, Welch, Loebsack, and Pallone (ex officio).

Staff Present: Will Batson, Legislative Clerk; Sean Bonyun,

Communications Director; Leighton Brown, Press Assistant; Allison Busbee, Policy Coordinator, Energy & Power; Melissa Froelich, Counsel, CMT; Tom Hassenboehler, Chief Counsel, Energy & Power, A.T. Johnston, Senior Policy Advisor; Mary Neumayr, Senior Energy Counsel; Dan Schneider, Press Secretary; Christine Brennan, Minority Press Secretary; Michael Goo, Minority Chief Counsel, Energy and Environment; Caitlin Haberman, Minority Professional Staff Member; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; John Marshall, Minority Policy Coordinator; Alexander Ratner, Minority Policy Analyst; and Tim Robinson, Minority Chief Counsel.

Mr. Whitfield. I would like to bring the hearing to order.

This morning's hearing is going to be focused on EPA's proposed ozone rule.

I would like to recognize myself for 5 minutes for an opening statement.

The proposed rule would lower the standard from the current 75 parts per billion down to 65 or 70, but the Agency is also taking comments on 60 parts per billion.

These proposed levels are so low that, in some parts of the country, they are at or near background levels. The proposed levels are so low that even EPA admits that it is not fully known in some areas how to achieve full compliance. In other words, they have to use unknown controls to do it, to meet those standards.

The marginal costs of ratcheting down the existing standard go through the roof, and the EPA estimates that a 65-to-70-parts-per-billion standard would cost $3.9 to $15 billion annually and that at 60 parts would cost $39 billion annually.

Independent estimates are much higher, including a National Association of Manufacturers study that puts the cost of a 65-parts-per-billion standard at $140 billion a year, which would make this the Agency's most expensive regulation ever.

This study also estimates 1.4 million fewer jobs and the household cost averaging $830 per year. These costs come on top of

all of the other rules we have seen from this administration, many of which also impact the energy and manufacturing sectors.

Moreover, this rule is yet another chapter in the administration's effort to force more extreme climate policies on the American people. I would like to just name a few of them. We have done the Utility MACT, the Boiler MACT, the Cement MACT, the Cross-State Air Pollution Rule, the PM, the 111(d), the 111(b), the Tier 3, all on top of this proposed ozone rule.

I would also like to point out that today in America there are 230 counties not in compliance with the 2008 standard. And I might also add that EPA is just now getting around to providing implementing guidance for the States for the 2008 rule.

Now, these counties not meeting the new standard would be designated as nonattainment. As I said, there are 230 counties today in nonattainment around the country.

EPA estimates that fully 358 counties that currently have monitors would be in nonattainment if they go to 70 parts per billion and 558 counties would be in noncompliance at 65 parts per billion based on recent data. Now, this does not include counties nearby or without ozone monitors that may also be designated by EPA to be in nonattainment.

Now, a nonattainment designation is like a self-imposed recession for some areas. In such counties, it becomes extremely difficult to

obtain a new permit to build a factory, to expand a factory or a power plant, and even permits for existing facilities would be impacted.

Just last week, in a survey of manufacturers, over half of them, in fact, 53 percent, said they were not likely to continue with a new plant or expansion if it is located in a nonattainment area.

The same permitting challenges apply for roads and other large infrastructure projects. In effect, almost all new major job-creating economic activity is jeopardized until the nonattainment area meets the standard, which could take years, if not decades.

Even the mere possibility that a location could later be designated to be in nonattainment is enough to scare off prospective employers. So the proposed rule may already be doing damage.

Now, there is something wrong with our system when you have Los Angeles, San Joaquin Valley, major parts of California, that have the most stringent environment standards in the country and, on top of that, EPA and those areas -- San Joaquin Valley, Los Angeles -- may never be in compliance. They are certainly not in compliance today and have been out of compliance since the beginning of the Clean Air Act. So we have a system that is not working very well.

[The prepared statement of Mr. Whitfield follows:]

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Mr. Whitfield. At this time I would like to recognize the gentleman from New Jersey, Mr. Pallone, for his 5-minute opening statement.

Mr. Pallone. Thank you, Chairman Whitfield, for holding this hearing on EPA's proposed ozone standard.

I also want to welcome EPA Acting Assistant Administrator Janet McCabe and thank her for testifying before the subcommittee again.

Since 1970, the cornerstone of the Clean Air Act has been a set of health-based air quality standards which help to ensure that all Americans can breathe healthy air. EPA must set each air quality standard based on science and medical evidence alone.

Essentially, the standard sets the level of pollution that is safe to breathe. This structure has been extraordinarily effective in cleaning the air and protecting public health, including the health of children and seniors.

But the current 75-parts-per-billion ozone standard has fallen short. Since 2008, the ozone standard has been weaker than the facts would allow.

As such, the Independent Clean Air Scientific Advisory Committee made crystal-clear that, in order to adequately protect public health, EPA must strengthen the ozone standard to ensure an adequate margin of safety for all individuals. But these recommendations, unfortunately, were ignored by the Bush administration.

To correct this flagrant disregard for the facts, EPA has now proposed, based on yet another exhaustive review of the scientific evidence, to revise the standard to fall within the range of 65 to 70 parts per billion, as recommended by the Scientific Advisory Committee.

EPA's decision is fully consistent with the law and the scientific evidence, and there are a litany of adverse health impacts that will be avoided with the stronger standard, nearly a million asthma attacks in children, millions of missed school days, and thousands of premature deaths.

These are meaningful real-world benefits, but I have little doubt that today we will hear much about cost. Yet, a unanimous United States Supreme Court opinion written by Justice Scalia, no less, made it clear that EPA's approach for determining a safe level of air pollution is correct and costs may not be considered.

And that is why Congress designed the Clean Air Act. The standard is set based on the health science, and economic costs are only considered later when determining the best way to implement the standard. In other words, EPA sets the goal for clean air and the States develop the lowest cost way to meet it.

Although EPA may not consider costs in setting the standard, EPA has, nevertheless, worked with the Office of Management and Budget to prepare a careful analysis of the projected costs and benefits associated with reducing ozone. EPA estimates that the benefits

associated with the new ozone standards would range from $13 to $38 billion annually, outweighing the cost by approximately three to one.

Industry has prepared dubious and grossly inflated estimates of the projected costs, but they fail to consider any of the benefits. That paints a completely one-sided picture of the costs of cleaning our air, one that ignores the real costs that are borne by those who breathe, especially children whose lungs are developing and who breathe greater volumes of air for their size.

We will also hear that EPA's proposed ozone standard will have dire consequences for economic growth. And these doomsday claims about the costs of clean air are nothing new.

The history of the Clean Air Act has a history of exaggerated claims by industry that have never come true. The reality is that, over the past 40 years, the Clean Air Act has produced tremendous public health benefits while supporting America's economic growth.

EPA's ozone standard is long overdue. We need to let EPA do its job to reach the goal of the Clean Air Act, clean air for all Americans. And I look forward to Ms. McCabe's testimony.

I yield back the balance of my time.

[The prepared statement of Mr. Pallone follows:]

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Mr. Whitfield. The gentleman yields back.

At this time I recognize the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. Olson. I thank the chair. And I will be very brief.

I spent long hours going over comments that EPA received about this new ozone rule. And there was a common theme: "Will I lose my job?" Questions came from big cities, members of the Atlanta Chamber or the Greater Houston Partnership. They came from family farms and ranches, members of the Iowa Farm Bureau or the Nebraska home builders.

A mom-and-pop store in Pennsylvania wrote EPA -- and this is a quote -- "Parents tell our children, 'Eat your peas, then you can have dessert.' EPA says, 'Eat your peas, then you can have more peas,'" end quote.

The worst came from EPA's workhorses, the State agencies who make this rule work. They have no clue about the science used for the health impacts. They worry if they can build new roads. These voices come from all of America, and I hope EPA starts listening.

And if one of my colleagues on my side wants some time, I will yield. If not, I yield back.

[The prepared statement of Mr. Olson follows:]

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Mr. Whitfield. The gentleman yields back.

At this time I recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. Rush. I want to thank you, Mr. Chairman, for this hearing today on the EPA's proposed ozone rule.

And I also want to welcome back Ms. McCabe, the Acting Assistant Administrator for Air and Radiation at EPA. She has always given us her best, and I always am pleasured to hear her insightful and forthright testimony before this subcommittee.

Mr. Chairman, today, as has been duly noted, we are here to discuss the proposed National Ambient Air Quality Standards for ozone, which the EPA is legally mandated to put forth by the Clean Air Act.

The Clean Air Act requires the EPA to set primary National Ambient Air Quality Standards at concentration levels sufficient to protect the public health with an adequate margin of safety for certain pollutants that endanger public health and the environment.

We know that the EPA establishes these standards based on medical and scientific evidence as well as the recommendations provided by the Clean Air Scientific Advisory Committee, which, Mr. Chairman, you know is an independent scientific review committee.

The EPA is required to base these standards, which must be reviewed every 5 years, solely on consideration of public health, and they must accurately reflect the latest scientific knowledge, Mr.

Chairman.

We know that, in 2008, the Bush administration failed to heed the unanimous recommendations of the Clean Air Scientific Advisory Committee, ignoring the ozone air quality standards to between 60 and 70 points per million.

Instead, the EPA under President Bush set the standard at 75 ppb, despite the advice of the Scientific Advisory Committee that a 60-to-70-ppb standard would be more protective of public health.

The Obama administration also initially failed to reconsider the ozone standard in 2009 until being ordered to do so by the courts in April of last year due to a lawsuit brought forth by environmental and public health groups.

So that leads us to ask the questions, Mr. Chairman: Why is this rule so very important? And why did the court force the EPA to act?

Well, we know that there are serious health effects caused by the ozone, and the EPA's proposal will improve air quality and result in significant public health benefits. Children, the elderly, and people with respiratory diseases such as asthma will be impacted directly by this rule.

The EPA estimates that there are currently 25.9 million people in the U.S. with asthma, including 7.1 million children. And, Mr. Chairman, my city of Chicago has been and is disproportionately impacted by asthma and the effect that ozone has on asthma. The most

recent study shows that Cook County, Illinois, is home to over 113,000 children and over 340,000 adults with asthma.

And, Mr. Chairman, I don't know what value can be placed on preventing all of these dire circumstances, all these illnesses, all these premature deaths and emergency room visits, but I know that the people who sent me here to represent them are some of the ones who would be impacted by this procedure and by this action most of all.

So I look forward to engaging Ms. McCabe on the rationale behind this proposal. And, Mr. Chairman, I think I am out of time. So I yield back the balance of my time.

[The prepared statement of Mr. Rush follows:]

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Mr. Whitfield. The gentleman yields back the balance of his time.

At this time, Ms. McCabe, I want to thank you for coming here early this morning, at 9:30. And, once again, we apologize for the delay. But we are delighted that Janet McCabe is with us, the Acting Assistant Administrator at EPA.

And you are recognized for 5 minutes for your statement on the ozone rule.

STATEMENT OF HON. JANET MCCABE, ACTING ASSISTANT ADMINISTRATOR, AIR AND RADIATION, U.S. ENVIRONMENTAL PROTECTION AGENCY

Ms. McCabe. Thank you, Chairman Whitfield, Ranking Member Rush, members of the subcommittee. Thank you for the opportunity to testify today on EPA's proposed updates to the ozone National Ambient Air Quality Standards. I will try to be brief so we can get to your questions.

The Clean Air Act requires EPA to review the National Ambient Air Quality Standards every 5 years to make sure that they continue to protect public health with an adequate margin of safety. For at-risk groups, including, as Ranking Member Rush has noted, the estimated 25.9 million people who have asthma in the United States, of whom 7.1 million are children, this is critical work.

For this review, EPA examined the thousands of scientific studies, including more than 1,000 new studies published since EPA last revised the standards in 2008. Based on the law, a thorough review of all of that science, the recommendation of the Agency's independent scientific advisors and the assessment of EPA scientists and technical experts, the Administrator's judgment was that the current standard of 70 parts per billion is not adequate to protect the public health. So she proposed to strengthen those standards to within a range of 65

to 70 parts per billion to better protect Americans' health and welfare.

The Agency invited comments on all aspects of the proposal, including alternative levels as low as 60 parts per billion, and also acknowledged interest among some stakeholders in offering comment on retaining the existing standard.

We also propose to update the Air Quality Index for ozone to reflect a revised standard if one is finalized. The AQI is the tool that gives Americans realtime information about air quality each day so they can make informed choices to protect themselves and their families.

Ozone seasons are lasting longer than they used to. So EPA proposed to lengthen the ozone monitoring season for 33 States to match the season when ozone levels can be elevated.

To protect the environment from damaging levels of ground-level ozone, as required by the Clean Air Act, the EPA has also proposed to revise the secondary standard.

Based upon new studies that add to the evidence that repeated exposure to ozone reduces growth and has other harmful effects on plants and trees, the Administrator judged that a secondary standard within the range of 65 to 75 parts per billion, the same as the primary standard proposal, would protect the public welfare, particularly against harm to trees, plants, and ecosystems.

In addition, we have proposed to make updates to monitoring and

permitting requirements, smooth the transition to any revised standards, maximize effectiveness in the State, local, tribal and Federal monitoring programs, and give areas new flexibilities to meet local needs for monitoring ozone precursors. All of these updates are designed to ensure that Americans are alerted when ozone approaches levels that may be unhealthy, especially for sensitive people.

The Administrator's proposal to strengthen the standards is designed to better protect children and families from the health effects of ozone pollution. For example, we estimate that meeting a level in the range of 65 to 70 parts per billion would prevent an estimated 330,000 to 1 million missed school days, 320,000 to 960,000 asthma attacks in children, and 710 to 4,300 or more premature deaths per year.

Implementing a NAAQS has always been and will continue to be a Federal, State, and tribal partnership. EPA stands ready to do our part to assist States and tribes with pollution control programs and to streamline implementation.

Local communities, States, tribes, and EPA have already shown that we can reduce ground-level ozone while our economy continues to thrive. We have reduced air pollution in this country by nearly 70 percent, and our economy has tripled since 1970. We fully expect this progress to continue.

Existing and proposed Federal measures like vehicle standards,

power plant rules, are leading to substantial reductions in ozone nationwide, which will help improve air quality and help many areas meet any revised standards.

We received over 430,000 comments during the 90-day public comment period, and we are reviewing those comments as we work towards completing the final standards by October 1 of this year.

Thank you very much. And I look forward to your questions.

[The prepared statement of Ms. McCabe follows:]

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Mr. Whitfield. Thank you, Ms. McCabe, very much.

And I recognize myself for 5 minutes of questions.

Many of us believe that the Clean Air Act needs to be changed. I say that because, just as Mr. Rush mentioned, you mentioned, EPA looks at impact on health care by making it more stringent, these ozone rules, for example, and you eliminate so many cases of asthma, so many premature deaths, whatever, whatever, which is important.

But under the act you do not have any responsibility to look at those pockets of the country that are in noncompliance and the impact that these stringent controls have on jobs. And we have had economist after economist come in here and talk about loss of jobs and the impact that that has on health care for children, for infants.

And, yet, EPA, every time they come up here, it is all about the benefits, the benefits, the benefits. And there are detriments to these actions because, as you know, when an area is in noncompliance, they can't build a new plant unless they can get a permit. They can't built infrastructure projects. And it does have an effect on jobs.

Now, fortunately, areas like Los Angeles that have never been in compliance, you know, they rely on the entertainment industry and high tech and so forth. So they don't have to worry about manufacturing jobs or basic industry jobs.

But how do you account for the fact, for example, that Los Angeles is still in noncompliance and your own rule states that, some of these

areas, the only way they will ever be in compliance under even the 2008 rule is they have to use unknown controls, controls that we don't know what it is.

And you do understand -- I mean, your own testimony, your own documentation, shows that many parts of the country are going to be in noncompliance, whether it is 70 or 65. And even President Obama tried to prevent the implementation. He delayed implementation of the most recent review.

And now, of course, environmentalist groups who do a good job, they have a role to play, but they are driving EPA because they are always going into court. And under the strict construction of the language, sometimes which is quite nebulous, the courts say, "You cannot delay."

So many of us are really frustrated that these environmental groups are driving the decisions because of the strict language in the original Clean Air Act. So I hope you get a sense of the frustration of many parts of the country.

In Kentucky, we are going to have 11 more counties in noncompliance at 70. We are going to have 23 more at 65. And every major city in Kentucky will be in noncompliance at some of these levels.

So are you concerned that, after all this time, areas like Los Angeles and San Joaquin still can't even meet the old standards?

Ms. McCabe. Chairman Whitfield, there is a lot in your question

there, and I will try to address as much of it as I can.

There are certainly parts of the country where meeting the health standard has been extremely challenging due to a variety of factors, including particular challenges in southern California. What that means is that millions of people who live in those areas are exposed to unhealthy air.

The good news is that air quality has improved in southern California as well as all across the country --

Mr. Whitfield. But they are still in noncompliance.

Ms. McCabe. They do not meet the standard, but there are way fewer days and there are -- the levels are lower and the area is making progress in a way that still supports a vital local economic and --

Mr. Whitfield. How much time does Los Angeles have to comply? I mean, I don't know if they are severe or extreme. But how many years do they have to comply?

Ms. McCabe. Los Angeles is in the extreme category. And if the standard is revised this fall, they would have until 2037 to meet that standard.

What that means is the area has a lot of time to bring reductions into place and --

Mr. Whitfield. But they have been working on it for 15 or 18 years. They are not even in compliance today.

Ms. McCabe. That is right. The air is still not healthy there

for the citizens to breathe.

Mr. Whitfield. Well, I see my time is expired. But, you know, many of us feel very strongly you should just continue to implement this existing rule for a while and give the country time to catch up, since even your implementing guidance has not been issued until just recently.

I recognize the gentleman from Illinois for 5 minutes.

Mr. Rush. I want to thank you, Mr. Chairman.

Assistant Administrator McCabe, in your written testimony, you note that nationally, since 1980, average ozone levels have fallen by a third. Additionally, 90 percent of the areas originally identified as not meeting the ozone standards set in 1997 now meet those standards, 97 percent.

What would you say to the argument that we have already reduced our average ozone levels enough and further lowering the standards from 75 to 70 or even 65 would not give us the additional health benefits as opposed to the cost of trying to reach those higher standards?

Ms. McCabe. Yeah. Well, Congress in the Clean Air Act directed EPA every 5 years to look at the science and make a determination about whether the current level is adequate to protect the public health.

And based on all of that review in a very open process with external peer review all along the way, the Administrator made the determination that 75 parts per billion is not sufficiently protective.

That is based on all of this science that we have seen that shows that people suffer the effects of ozone air pollution at levels below 75 parts per billion. That is her job to do under the Clean Air Act, and that is what our proposal is all about.

Mr. Rush. Well, you also point out that, since 1980, we have reduced our air pollution by nearly 70 percent and our economy has tripled. And we know that, by law, EPA cannot consider the cost of implementing either the primary or secondary air quality standards, but only can consider the health benefits.

Has there been any cost-benefit analysis by the EPA or any other agency either before, during, or after the proposal?

Ms. McCabe. Ranking Member Rush, you are correct to point out that there is a separation that Congress laid out in the Clean Air Act between deciding what the science says is important for safe and healthy air and deciding how to meet that standard, which the States are in charge of because it is their air quality, their sources, with considerable help from the Federal Government.

So we don't know exactly how the States will go about meeting the standard because we know that they will -- as they have over the years, they will find cost-effective ways to do that with the help of rules provided by the Federal Government.

But we do provide, as part of the rulemaking process, a regulatory impact analysis, an RIA, to show illustrative costs. And that goes

through the review of the Office of Management and Budget and is done consistently with the obligations and the requirements that they put on us to do those sorts of economic reviews.

Mr. Rush. Ms. McCabe, the chairman talked about Los Angeles and other places. What is your viewpoint? Why do they stand out? And what direction is the EPA going to try to bring them more into compliance?

Ms. McCabe. There are a lot of pretty unique features that make southern California very challenging for air quality.

It is obviously a very populace area. So there is a lot of activity there that creates emissions. But there is also the unique geography and topography, being the mountains and the ocean and the meteorology there, that just makes it very challenging.

As a result, EPA, as well as really progressive and smart and innovative agencies and businesses in California, have really led the way in figuring out how to reduce emissions in cost-effective ways to protect the citizens and improve air quality there.

And EPA, in fact, has provided significant support and assistance through grant programs, through technology assistance over the years, and certainly will continue to do that in order to bring the kinds of programs that need to be in place there.

One of the advantages of that is that the innovations in California have helped the rest of the country in terms of bringing

new ideas and new approaches into use in ways that can benefit the rest of the country and benefit the economy.

Mr. Rush. Thank you, Mr. Chairman. I yield back.

Mr. Whitfield. At this time I recognize the gentleman from Texas, Mr. Olson, for 5 minutes.

Mr. Olson. I thank the chair.

Welcome back, Ms. McCabe.

We all know that much of the ozone in America is beyond our control. EPA calls this background ozone. Some of this ozone is natural, blows from other countries.

I have a slide here. This was Houston. Some of that is not our ozone. Some belongs to Mexico. We get it because of annual crop burnings.

I have another poster. Last time Ms. McCarthy was here I showed her this map of ozone pouring into America from China and Asia.

In your proposal, you admit that natural ozone and ozone from Mexico and China can be a huge problem. Your rule says -- and I quote -- "There are times where ozone levels approach or exceed the concentration levels being proposed in large part due to background sources," end quote.

In small Needville, Texas, you are saying that ozone we can't control makes us violate your new rules. That seems very unfair, ma'am.

My first question is: Is it true that nearly one-half of the ozone in America is here naturally or comes from overseas?

Ms. McCabe. I don't know that I would agree with that formulation exactly. We do address the background issue, and background levels vary across the country and they vary across different times of year. And, as you note, they come from a variety of sources.

I will note that the Clean Air Act does not hold States responsible for pollution that they do not control, and there are provisions and mechanisms in the Clean Air Act to help States that --

Mr. Olson. Ma'am, I am sorry. I have only have 5 minutes and thousands of questions back home people had asked. So I have got to cut you off. I apologize.

And, also, your answer goes against your own data. I mean, you admit -- I will give you copies of the EPA's data that says more ozone is all over this country.

We know that natural and foreign ozone are not going away and are likely to get much, much bigger. That means we must squeeze more and squeeze more from smaller and smaller sources of ozone. EPA can't say how this can be achieved. You don't know.

Is it true the EPA says that much of the technology needed to meet these new rules are unknown today? Is that true? Yes or no.

Ms. McCabe. I wouldn't characterize it as much of the technologies. We do recognize that, in some parts of the country,

there may need to be controls identified that are not in existence today.

But there are many controls that are in existence today that can be implemented that will reduce the air pollution that causes ozone.

Mr. Olson. Ma'am, one example: EPA admits that 43 percent of NOx controls needed in the northeast are now unknown. Stark contrast to your answer.

One other question: Is it true that EPA won't even consider whether an ozone rule is achievable? Is that true? In your formulation, will you consider is this achievable? Can we do this with technology?

Ms. McCabe. Our job under the Clean Air Act is to identify the standard that is necessary to protect the public health. That is what this rule is about, is letting the American people know what is safe and healthy air for them to breathe.

Mr. Olson. So you can't take into account achieve-ability. You just can't do that.

By law, is that what you are saying, ma'am?

Ms. McCabe. The Supreme Court has spoken to this, and this is about the science and about what is healthy for the American people.

Mr. Olson. Well, it sounds like we need to change that law.

One final question, ma'am. The law does not require, as you know, EPA to change the ozone rule every 5 years. You just have to review

it, as you said in your opening comments.

You say you have to change the current rule because the 2008 rule doesn't protect human health, and, yet, back home the Texas Commission on Environmental Quality points out that your own modeling in your, quote, "Health and Risk Exposure Assessment, appendix 7, page 73-2," end quote, would result in more deaths in Houston, Texas, with a lower standard.

TCEQ concludes that our EPA can't read their own data or you are accepting a lower ozone standard that makes health worse.

Any comments about that fact, ma'am?

Ms. McCabe. I would very much disagree with the way TCEQ characterized the data. And if you look at the entire body of data, you will see that the health benefits of the proposed ozone standard are substantial.

We welcome everybody's comments on the rule, and TCEQ has provided a lot of analysis which we are looking very closely at.

Mr. Olson. I will make you a deal. Get a copy of our assessment. Have it to you today, ma'am. Thank you very much.

Yield back.

Mr. Whitfield. Time has expired.

At this time I recognize the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. McNerney. Thank you, Mr. Chairman.

And thank you, Ms. McCabe.

Early in your testimony and, also, in response to Mr. Rush's question, you said that you looked at thousands of reports, a thousand more recent reports, and it concluded that, to protect the health and safety of the communities, 75 was a little too high.

Now, are we splitting hairs here or are we talking about large-scale effects?

Ms. McCabe. We are talking about millions of people that are suffering the effects of ozone pollution that at a lower level would not suffer those effects.

Mr. McNerney. So one of the EPA's primary missions is to protect the health of this country and our communities.

Wasn't there a rule recently that ensured that the EPA must look at health and safety of the community first before looking at economic impacts?

Ms. McCabe. That is exactly what courts have said with regard to setting these air quality standards. Yes.

Mr. McNerney. Thank you.

The chairman mentioned San Joaquin Valley, which is my home.

So I appreciate your attention, Mr. Chairman.

But I have seen over the last several years improvement year by year in the air quality in our community, and I think a lot of this is due to the kind of standards that the EPA has initiated.

And one of the things that we do is incentivize some of the old diesel equipment to be replaced by new diesel equipment, but that takes time.

That is not something we can require all the farmers or diesel truck owners to do over a period of a year or two. It takes time. So I appreciate that we are going to continue to look at those and keep those standards in place.

And I just want to say the Bay Area contributes a lot of the ozone to the San Joaquin Valley. Sort of like what Mr. Olson was saying, we get a lot of it from outside of our region.

So we ask you to take special consideration to that in helping us make those attainments and then the sort of penalties that are assessed when you don't make those attainments. And I appreciate Mr. Olson's comments on that.

What is the EPA going to do or how is the EPA going to assess drought impacts on air pollution and ozone?

Ms. McCabe. Yeah. So we know that the drought situation is incredibly severe and challenging and troubling in California and elsewhere. That can contribute to poor air quality because of increased dust. But we also have tools in the Clean Air Act that can allow States to evaluate their air quality as it is being influenced by natural conditions such as that.

And we are working closely with the States to make sure that our

guidance and expectations are current with situations like drought and wildfires, which are also a challenge, to make sure that States aren't responsible for natural conditions and that sort of thing that can create ozone situations.

Mr. McNerney. Would you confirm my observation that the air quality is improving in the San Joaquin Valley?

Ms. McCabe. Yes, sir. Yes. I certainly would.

Mr. McNerney. Do you have something you could say here about that?

Ms. McCabe. Well, I don't have figures with me, Congressman, although I would be happy to get those to you. But certainly over recent years air quality has been improving, and it is due to the kinds of programs that you mentioned: replacing older, dirtier engines with cleaner, newer ones and working very closely with the agricultural community and everybody in the San Joaquin Valley to find sensible things to do.

Mr. McNerney. So nonattainment doesn't penalize us in the sense of backtracking the actual air quality in the region?

Ms. McCabe. No. No. Not at all. It is all moving in the right direction.

Mr. McNerney. Thank you.

Could you explain the difference between secondary standards and primary standards.

Ms. McCabe. Yes. Primary standards are focused on protecting human health. Secondary standards are focused, as the Clean Air Act says, in protecting public welfare.

So those are other things that we care about, as people who live in this country: economic impacts, effects on ecosystems, effects on crops, effects on buildings, the other things that make our economy and our quality of life what it is.

Mr. McNerney. Okay. So then you said you are going to set the primary and secondary standards the same with regard to ozone.

Ms. McCabe. Well, it turns out we do an independent analysis of the information that exists on human health and then on these secondary impacts and there is an extensive discussion of that in the preamble in the proposal.

And our Clean Air Act Science Advisory Committee spoke to that directly. Our review of the science shows that a standard set in the range of 65 to 70 will provide the protection that the science tells us the welfare impacts require.

Mr. McNerney. Okay. Thank you, Mr. Chairman.

Mr. Whitfield. At this time I recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman.

And, Assistant Administrator, welcome. It is good to have you back.

Just personally, just you as an individual, don't you believe that having a good-paying job with health benefits is also protective of human health?

Ms. McCabe. I think it is important for everybody to have a job and --

Mr. Shimkus. And healthcare benefits of some sort.

Ms. McCabe. Yes, I do. Of course I do.

Mr. Shimkus. And that is part of our -- I mean, when you hear the questions and the responses back and forth, that is kind of our -- part of our challenge is -- especially as I follow up on this question, is that you all, as an EPA, don't really have the authority to evaluate that with respect to your primary mission, which is protective of human health via the air regulations. Right?

I mean, you just can't weigh in. You are not making those cost-benefit analyses. We say we are to some extent, but they are so far down the decision tree that many of us believe that they just don't happen.

So let me go to another question based upon a comment you made. Because a lot of this is -- 75 parts per billion in 2008, many States have not met those yet, but now we are ratcheting down even more and there is a lot of uncertainty. Now that will move on to my third question once I get there.

But in your response you talked about background is different in

different areas. So are you considering a different regulation standard based upon the variance of background? So could one area of the country have a 70 parts per billion and another one have a 65 parts per billion? And if --

Ms. McCabe. Well --

Mr. Shimkus. Yeah. Answer the question. I can follow up.

Ms. McCabe. Yeah. Sure.

Well, the standard is supposed to reflect what is safe for people to breathe. And so a child living in Florida and a child living in Oregon should be entitled to the --

Mr. Shimkus. But background is background. Background is there without, in essence, human contact.

Ms. McCabe. That is right. And that comes into play when States are putting their plans together and EPA is working with States to figure out how much time and what needs to be done in order to reach those standards so that areas that have more --

Mr. Shimkus. But if an area has 70-parts-per-billion background, you can't get them to 65 --

Ms. McCabe. But --

Mr. Shimkus. -- through the power of government.

Ms. McCabe. But there are two very important elements to the standard. One is for the people who live in that area to know whether the air that they are breathing is healthy or not.

Mr. Shimkus. So they should move. Is that the answer? Get out of that 70-parts-per-billion area because it is not healthy.

Ms. McCabe. No. But they should know that, when the air quality is bad, that they might want to --

Mr. Shimkus. What should they do? It is naturally occurring. That is the background.

Ms. McCabe. Right. But understand, too, that ozone changes from day to day and there are --

Mr. Shimkus. So they should take a vacation during those days. You see our problem. I think -- in rolling this out, I would hope that -- background is important. Background should be a standard. We should not try to have government force something that is not naturally occurring based upon nature without man's intervention.

Ms. McCabe. If I could clarify a point on the background because I think people may be thinking that this is pervasive, in fact, across the country, most of the ozone that is contributing to high values is locally or regionally created.

There are very few areas, very few parts of this country, where background can get as high as approaching the level --

Mr. Shimkus. Okay. But you understand our concern, even if it is very low possibility. If -- anyway, I want to move on to the last question.

We just finished our Congressional baseball game last night. We

lost again. But it makes me think about what Chairman Whitfield was addressing. Had we started the game and then halfway through the game the strike zone changed or in the second inning the number of outs changed or the fourth inning the foul lines changed or the outfield walls got moved in, that would make for a very frustrating, impossible game. Would you agree?

Ms. McCabe. But this is about -- ozone is not about rules. It is about science.

Mr. Shimkus. This is about Utility MACT, Boiler MACT, Cement Rule, Cross-State Air Pollution, 111(d), 111(b), ozone, different standards, particulate matter, Tier 3.

We are changing the rules on the fly, and the people who are creating jobs in this country cannot manage it. That is our problem with what is going on with the EPA.

And I yield back my time.

Mr. Whitfield. At this time I recognize the gentlelady from California, Mrs. Capps, for 5 minutes.

Mrs. Capps. Thank you, Mr. Chairman, for holding this hearing.

Thank you, Ms. McCabe, for your testimony.

And maybe it is a bias because I have been a public health nurse a long time, but when it comes to air quality, I believe our focus must be primarily on protecting public health.

This is the standard set by Congress in the Clean Air Act. It

is a standard that has been upheld by the Supreme Court and for good reason. Clean air has very real and significant impacts on the health and well-being of all Americans.

And this was underscored by Ranking Member Bobby Rush from Chicago, where they know a thing or two about air pollution, too. Healthier children, parents, and employees translate into very real economic benefits.

I would say to my colleague Mr. Shimkus, who made a case in the other direction, that good jobs with health benefits, which he was arguing for, are even better in the context of clean air. And even polluters benefit from healthier employees taking fewer sick days.

So my question is just asking you to elaborate on this fact. What is the economic value?

Ms. McCabe. Yeah. It is absolutely true. And I think many agree that a clean and healthy environment is very positive for the economy as well as for public health.

Our illustrative analysis shows that, at a standard of 60 parts per billion, there would be benefits in the range of $6.4 to $13 billion to the economy and, for 65 parts per billion, $19 to $38 billion.

And that comes from some of the things that you have cited, which is fewer missed school days, less missed work, fewer visits to the emergency room and that sort of thing.

Mrs. Capps. Right. Some oppose strengthening ozone

standards -- and we have heard it today -- because it would increase the number of nonattainment areas.

Ms. McCabe, does the Clean Air Act require EPA to set ozone standards based on how many areas currently meet that standard or based on protecting public health?

Ms. McCabe. It is based on protecting public health.

Mrs. Capps. And for those areas that need to make improvements -- and many of these are in my home State of California -- what resources are available to help lower the ozone layers?

I mean, I think the word "smog" was invented in the Los Angeles area. I live just a tiny bit to the north of it, but we still struggle every day.

Are these areas on their own or does the Federal Government provide assistance?

Ms. McCabe. Absolutely. This is a partnership between the Federal Government and the State governments. The Federal Government assists in a number of ways.

One is by promulgating national rules like Tier 3 to apply to automobiles nationwide, bringing tremendous benefits, and other rules that make sense to do at a national level.

We also help the States by providing financial assistance and support, technical assistance and grants. And your area has certainly

benefited from those sorts of programs that can be very targeted to the specific needs of a particular area.

Mrs. Capps. Thank you.

And, as you know well -- and I would like to turn to the topic of climate change just briefly -- this is increasingly impacting all aspects of our economy and our daily lives. Storms are getting stronger. Floods are getting worse. Droughts, as I know very well in California now, and wildfires are getting more severe. And climate change also increases the levels of ozone in the air we breathe.

Would you explain just very simply how climate change is expected to impact ozone levels. And how will this affect our human health?

Ms. McCabe. Sure. As the climate gets warmer -- warm conditions are what is conducive to ozone formation. So it can lead to increased ozone formation. And, circularly, ozone is also a climate pollutant. So it helps contribute to the kinds of effects that we are seeing.

Mrs. Capps. And then, just briefly, finally, I hear so often the industry as well as some here in Congress cite high cost estimates as the reason to oppose strengthening environmental public health standards. It is the same argument being used against the proposed ozone standards.

While I believe cost of new regulations should certainly be considered and there is a way that you are talking about doing that,

these costs must also be weighed against the benefits. It is important to remember that health benefits represent real people and real lives saved.

So how do the estimated health benefits of EPA's proposed ozone standards compare to the costs? In other words, what is that balance --

Ms. McCabe. Yeah. As we laid out in our illustrative case, the benefits outweigh the costs by $3 to every $1 that is spent.

Mrs. Capps. And this is based on studies that actually do demonstrate this?

Ms. McCabe. It is based on all the information that is available to us about the things that people are likely to do and the costs associated with -- the cost benefits associated with the health benefits.

Mrs. Capps. Thank you very much.

And I yield back.

Mr. Whitfield. At this time I recognize the gentleman from Mississippi, Mr. Harper, for 5 minutes.

Mr. Harper. Thank you, Mr. Chairman.

Thank you for being here today. Seems like you do hang out here quite a bit. So it is good to have you back.

Ms. McCabe. I do. I am happy to.

Mr. Harper. Well, look, just a quick question.

If we were able to somehow eliminate all ground-level ozone, there would still be people that would have respiratory illnesses. You would agree with that, wouldn't you?

Ms. McCabe. Sure. There are lots of things that contribute to respiratory illness.

Mr. Harper. Sure. And as we learn how to measure more minute levels of any type of item, that is something that I know we have to look at.

But I am really concerned, as we look at this, if we revise the current ozone standards, how that is going to affect transportation conformity requirements.

And so if you could just briefly say what are transportation -- transportation conformity, what does that mean?

RPTR KERR

EDTR SECKMAN

[11:45 a.m.]

Ms. McCabe. Transportation conformity is a provision in the act that wants to make sure that as States and municipalities are working to improve their air quality, that transportation planning is taken into account and that transportation planning takes air quality into account so that areas won't undermine their efforts to improve air quality inadvertently through transportation projects that will -- that could increase air pollution.

Mr. Harper. So States and localities will have that responsibility.

Ms. McCabe. They do have that now.

Mr. Harper. Obviously.

Ms. McCabe. And working with the Federal Government.

Mr. Harper. And in order to make that demonstration --

Ms. McCabe. Uh-huh.

Mr. Harper. -- what kind of modeling tools will these cities need to use?

Ms. McCabe. Well, there are tools that are in existence now and tools that EPA and Federal highway provide so that we work with the States on to analyze those impacts.

Mr. Harper. Well, how --

Ms. McCabe. Because we have been doing this for a long time, sir.

Mr. Harper. How reasonable or what type of situation is it for smaller cities? What about those that have that? Are you expecting the smaller cities to do the same analysis, and is that reasonable, and what are you anticipating?

Ms. McCabe. We would certainly provide any assistance that we needed to for any community. This is a focus in larger communities, more populace communities, but we would provide whatever assistance was needed to help.

Mr. Harper. So if the focus is for larger communities, are you planning on extending it to every community?

Ms. McCabe. The Clean Air Act provides the areas that need to look at transportation conformity. So we would follow the guidance and the requirements in the act and the regulations.

Mr. Harper. So if EPA allowed existing Federal measures to work, existing now, wouldn't many cities avoid having to do these time-consuming transportation conformity analysis?

Ms. McCabe. Well, we actually are -- RIA looks at the -- what we expect to happen to air quality in the future, looking at the rules that are in place now and the ones that are under development now, and we show that the vast majority of the areas that right now would have levels exceeding these standards by 2025 will come into attainment of

those standards through these measures.

Mr. Harper. You know, we have lots of important issues.

Ms. McCabe. Yes, sir.

Mr. Harper. And one of those issues is what to do about our highway, bridges, infrastructure, issues that we have in this country, and then many of those need to be repaired. We need new ones that need to be built. Stringent ozone standards, obviously, are going to make it harder for States to show that proposed highway projects conform with ozone standards.

Has EPA considered the economic and safety impacts that could result if these stringent -- more stringent ozone standards block crucial transportation projects?

Ms. McCabe. I don't think that we anticipate or have historically seen that conformity blocks important transportation projects, especially ones that are needed for safety reasons.

Mr. Harper. Well, you haven't seen that under the current, but if we have more stringent requirements and that causes additional cost, do you see -- can you explain that?

Ms. McCabe. I don't expect that the system would work differently in any areas. We don't expect a lot of new areas to be coming into nonattainment under these standards, so the areas are generally familiar with and already working with the transportation conformity system. But all of the provisions that are in there about

making sure that important safety projects go forward and other important projects go forward, those will all continue to apply.

Mr. Harper. Thank you. And I yield back.

Mr. Whitfield. The chair recognizes the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. Green. Thank you, Mr. Chairman.

Welcome, Ms. McCabe. Has previously EPA ever delayed the NAAQS standard?

Ms. McCabe. The NAAQS standard?

Mr. Green. Yeah.

Ms. McCabe. There is the NO2 standard, maybe that is what you are referring to. EPA, in the past, has not always met its deadlines, I would say, on --

Mr. Green. Okay. Well, that is the other thing. If EPA hadn't delayed the standards when the law required EPA to review the ozone standard again, what would be the regular timeline? Would it be 2015?

Ms. McCabe. The last time the ozone standard was revised was in 2008. Clean Air Act says every 5 years. So 2013 would have been 5 years.

Mr. Green. Okay. In your testimony, you stated EPA examined thousands of scientific studies, including more than 1,000 new studies published since EPA last revised the standard. The ozone NAAQS proposal, EPA acknowledged there is a brandnew scientific data the EPA

couldn't consider. Also, EPA states there are significant uncertainties regarding some of the studies that EPA did include regarding lowering the standard.

Most importantly, by 2017, the following standards will be in place that would significantly affect ozone and precursors. Ozone NAAQS at 75 parts per billion, Tier 3 vehicle emission standards, mercury and air toxic standards, from the Utility MACT, new source performance standards for volatile organic compounds, and particulate matter that NAAQS would also -- is important because EPA acknowledges reduction of particulate matter would account for two-thirds or three-fourths of those ozone NAAQS benefits.

Why is lowering the standard not more appropriate after the 75-parts-per-billion standard has time to take effect and EPA reviews all the new and related information and data, say, 2017?

Ms. McCabe. Well, because the Clean Air Act gives us a timetable of every 5 years, and we are late on that, and because this is about letting the American people know what is healthy air quality for them.

Mr. Green. Well, in earlier NAAQS, the EPA stated in earlier decisions, based on the applicable statutory requirements and the volume of material requiring careful evaluation, the EPA estimates it will be take 2 to 3 years to incorporate over 1,000 new health studies and criteria documents. Given various legal constraints and the fact that EPA has already missed deadlines for completion of ozone review

cycles, the Administrator concluded that the best course of action would be to complete the current review based on the existing air standard and proceed as rapidly as possible with the next review. Why would EPA not make a similar decision now since we are in 2015 now?

Ms. McCabe. Because we are now in that regular review, we are past our statutory deadline, and in fact, we are subject to a court schedule to finalize this rule.

Mr. Green. Well, my earlier question, there have been times that EPA has delayed it in the past. Is that true?

Ms. McCabe. There -- on our regularly required 5-year review --

Mr. Green. Yes.

Ms. McCabe. -- there have been times when we have not met that deadline. I think you are referring to the ozone reconsideration, which was not a mandatory requirement under the Clean Air Act. But for our mandatory 5-year review cycle, we have not deliberately delayed. We have missed deadlines, and we are in that situation now.

Mr. Green. I guess the concern I have, and you have heard it from other members, is that we haven't met the current standard, and yet we are getting ready to see some really things happen. And so to put a new standard on with all this is maybe starting too early before we see what the benefits are of the other things that the industries and everyone else is complying with.

And, again, EPA has delayed it in the past. But, you know, for

a 2-year delay, while all these other things come into play, and we will have better data then to be able to look at it.

Ms. McCabe. I will say, Congressman Green, that the effect of those various measures will affect air quality. And so if a standard is revised, and folks need to look at which areas do and don't meet the standard, all of those programs, like mercury and air toxic standard, Tier 3, will bringing air quality down so that fewer areas will be in nonattainment, and those programs will provide assistance in order to improve air quality in those areas.

Mr. Green. Mr. Chairman, one of my concerns is that part of our particulate matter in my area is because of the lack of infrastructure improvements. And so we can actually be hindering those infrastructure improvements if we make it more difficult. But, anyway, I am out of time, but I appreciate you being here.

Thank you, Mr. Chairman.

Mr. Whitfield. At this time, I will recognize the gentleman from West Virginia, Mr. McKinley, for 5 minutes.

Mr. McKinley. Thank you, Mr. Chairman. What is the timeframe in getting some written -- because I don't think we are going to be in here 5 minutes to be able to get through our questions. Is there a timeframe to be able to submit written questions?

Mr. Whitfield. Yeah, 10 days.

Mr. McKinley. Okay. Within 10 days, thank you.

Welcome back. My question is that should a rule like this, that helps public health, be withheld? Be withheld because of a regulatory burden that we have been referring to here?

Ms. McCabe. I am not sure I understand your question, Congressman.

Mr. McKinley. Well, if there is regulatory burden that is going to be imposed with this, should the EPA withhold the bill? The rule?

Ms. McCabe. Well, the Clean Air Act directs EPA to set the standards, and the Supreme Court has said that that is our job to do and that the issues related to implementation are a separate matter of separate consideration not to be considered in determining what the proper public health level is.

Mr. McKinley. So the Court has ruled on that, but I am just curious because it goes back that -- and you have heard it several times mentioned here that the President did step in and say there were some -- this was going to cause regulatory burden. And, therefore, he asked that the rule be held back for a period of time. That is an accurate statement, isn't it, that the President did intercede?

Ms. McCabe. That was in a reconsideration event, which is --

Mr. McKinley. Okay. That was in 2011. I am just curious. So I guess part of me is -- part of the question is, what has changed? If he felt that this rule should not have proceeded because it had regulatory burdens with it, what has improved since 2011 that is it

going to be less burdensome to industry?

Ms. McCabe. No. The decision to --

Mr. McKinley. Just those were his words.

Ms. McCabe. The decision --

Mr. McKinley. He just said if it has a regulatory burden, I think we should hold it back.

Ms. McCabe. I respectfully I disagree that that is what he said, Congressman. That decision was made in the context of knowing that there would be the required 5-year review, and the decision there was to defer and stop with the reconsideration process in deference to the review that we are doing right now.

Mr. McKinley. He just said: I underscore the importance of reducing regulatory burden and regulatory uncertainty. I have requested the Administrator Jackson to withdraw the draft ozone standards.

I think that is interesting because I am curious to see what has changed, how the economy is improved or the regulatory burden is less. But you have answered about as much -- I have just limited questions here, time on this. I am just curious a little bit about how a county is supposed to work in actual functioning through it.

I have got up to my 20 counties that I represent, 75 percent of those counties are going to be in noncompliance if you go to 65 -- 75 percent. So how are they supposed to -- in a real world, not

from academia, but how are they supposed to function when they are going to be in a nonattainment county? Seventy-five percent of my county, 15 of those counties are going to be in -- what are they supposed to do?

Ms. McCabe. Well, there are counties all across the country that have experienced poor air quality, have been designated nonattainment in the past, and States work with those counties to get programs in place to improve air quality in those areas.

Mr. McKinley. Can you give me an example? Give me -- you are talking --

Ms. McCabe. Yeah.

Mr. McKinley. 30,000 feet.

Ms. McCabe. Okay.

Mr. McKinley. Just go down to how are they going to change the air quality in Jefferson County, West Virginia that has a -- right now is at 81?

Ms. McCabe. Okay. Well, I can talk more -- I can talk better about my own home State of Indiana.

Mr. McKinley. No, please just talk -- these are just three counties in a row that they average 73, so there are already going to be so far over. Are we telling them and their kids and their families, when they sit at that kitchen table and they can't get a job, it is because their air quality is -- it was fine at 75, but now that they

get the 65, there is no jobs coming to West Virginia?

Ms. McCabe. So what States do in nonattainment situations is they look at the local sources of air pollution and put in place sensible measures to reduce those, and it might be local industry. It might be transportation.

Mr. McKinley. Okay. Local industry. You tell that local industry you change how we produce.

Ms. McCabe. Industry has controlled air pollution remarkably over the years. I come from Indiana. I was the air director there. We have an area northwest Indiana that --

Mr. McKinley. We have some counties like Tyler County, and they may have just -- well, I won't give -- we have some counties just have one industry.

Ms. McCabe. Right.

Mr. McKinley. And yet they are nonattainment.

Ms. McCabe. And there are many counties for which -- from which the air pollution is not generated right within that county, but it is generated regionally.

Mr. McKinley. Right.

Ms. McCabe. That is why States work with metropolitan areas. That is why the Clean Air Act has provisions to make sure that if upwind States are contributing to downwind States, that those upwind States take responsibility, that is why EPA moves forward with Federal

programs, such as the Tier 3, which makes motor vehicle traffic much cleaner everywhere, including in your State.

Mr. McKinley. Okay. I will get back to you. I would like to have more of a written answer from you because I have got a series.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. McKinley. I want to follow a metric here. How are we going to go down through to make these -- so there are job opportunities.

I want to close very quickly. Why were -- why are the tribes excluded from this regulation?

Ms. McCabe. The tribes aren't excluded. The tribes have the opportunity to regulate themselves, and if not, then EPA --

Mr. McKinley. But the proposal says that the tribes are not obligated to adopt or implement any of the ambient air quality standards for ozone. In addition, tribes are not obligated to conduct ambient monitoring for ozone or adopt the ambient monitoring requirements. That sounds like an exemption to me.

Ms. McCabe. No. The Federal Government implements the standards in Indian country, unless the tribe chooses to seek to do it itself. So the standards apply in Indian country. Regulations get put in place in Indian country. It is just that the Federal Government has the initial responsibility to do that.

Mr. McKinley. I know I am way over time. I would just be curious how they are going to change their operation. Thank you.

Mr. Whitfield. The gentleman's time has expired, and he can submit those questions.

At this time, I recognize the gentlelady from Florida, Ms. Castor, for 5 minutes.

Ms. Castor. Well, thank you, Mr. Chairman, and thank you for

calling this hearing.

And welcome.

You know, listening to my colleagues' comments today takes me back to a time when I was younger. Now, the Clean Air Act was originally adopted by the Congress in the 1960s. Is that right?

Ms. McCabe. Yes.

Ms. Castor. And there were -- there have been significant amendments in the 1970s and especially in 1990. And, you know, I think back to we have all kind of lived through this era. And I don't think anyone can argue that America is better off because we breathe cleaner air. And we have been able to balance environmental progress with economic progress. We have the strongest economy in the world today.

Yes, we have our challenges. We have had our setbacks, but we have been able to combine environmental progress, cleaner air, cleaner water, oversight of chemicals with economic progress and good jobs. I remember very well in the late 1960s and 1970s walking outside in my home in Tampa, Florida, and the air was awful. It was -- and we are a warm climate, so we have very smoggy days.

Now, it is much better. It is noticeably better. And anyone that lived in the 1960s and 1970s, whether you were in an industrial area or not, you understand the progress that we have made. So I want to thank you for your attention to cleaner air that we breathe. What a privilege it is to live in a country that has been able to show such

environmental stewardship and balance it against economic progress.

And that is the history of this country, and I am confident that we can continue to make that kind of progress.

Now, Ms. McCabe, what is the ozone standard right now?

Ms. McCabe. Seventy-five parts per billion.

Ms. Castor. And what does that mean exactly?

Ms. McCabe. That means that in a billion units of air, no more than 75 of those should be ozone in order to provide healthy air quality.

Ms. Castor. And how long has it been at 75?

Ms. McCabe. That was adopted in 2008.

Ms. Castor. And what was it before that time?

Ms. McCabe. It was 85.

Ms. Castor. So -- and now the proposal, EPA's proposal directed by the Court, directed by the Congress in statute is to go where now?

Ms. McCabe. What the Administrator proposed was a level somewhere between 65 and 75 parts per billion.

Ms. Castor. And that was after significant discussion by the Clean Air Scientific Advisory Committee. What is the Clean Air Scientific Advisory Committee?

Ms. McCabe. That is an external expert advisory panel that EPA convenes and has assisted us with all reviews of National Ambient Air Quality Standards. So it is a special panel convened to review all of the science that EPA develops, our Office of Research Development,

and the Office of Air and Radiation. And they go through a very lengthy process of reviewing multiple documents, both science documents and then policy documents, and give us feedback on the science that we are looking at.

Ms. Castor. So they considered all sorts of levels?

Ms. McCabe. So, yes, right, right. And they looked at all the studies that we lacked -- looked at. They considered all of that information and our evaluation of it.

Ms. Castor. And, in fact, that committee indicated that -- and it concluded that -- there is adequate scientific evidence to recommend a range of levels for a revised primary ozone standard from 70 parts per billion to 60 parts per billion. And with regard to the upper bound of 70 parts per billion, the committee said, based on the scientific evidence, a level of 70 parts per billion provides little margin of safety for protection of public health, particularly for sensitive subpopulations like children, elderly folks with respiratory problems.

Although a level of 70 parts per billion is more protective of public health than the current standard, it may not meet the statutory requirement to protect public health with an adequate margin of safety. What are they saying there?

Ms. McCabe. Well, they are acknowledging, first of all, that it is the Administrator's job to make this judgment about what protects the public health with an adequate margin of safety. What they are

saying is that they looked at all of this information and that they see evidence in the science record from the level of 70 down to a level of 60 that shows adverse impacts on public health from ozone at these levels of exposure. And what they are saying is that at the top end of the range, there is less cushion, there is less margin of safety than at lower levels within that range.

Ms. Castor. So this was taken into account as you develop -- as the Administrator developed the proposal.

Ms. McCabe. It was.

Ms. Castor. And, I mean, when you consider that the public health benefits for children, the elderly, respiratory diseases, I mean, we all know someone in our family or we know someone with asthma -- 26 million people in the U.S. are estimated to have asthma, 7 million children -- certainly we can continue the environmental progress to improve the public health and balance it against the economic needs of the country. I think this is the United States of America, and it can be done, so thank you for staying true to the law.

Thank you, Mr. Chairman.

Ms. McCabe. Thank you.

Mr. Whitfield. I recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. Griffith. Thank you very much, Mr. Chairman.

As you know, I represent a fairly rural district, includes the

Appalachian Mountains, Appalachian Trail, Blue Ridge Mountains, a stone's throw from the Smokies. My understanding is, is that under EPA requirements, in order to construct a new source of emissions or expand an existing source, there is a need to find offsets. Is that accurate?

Ms. McCabe. It depends on how an area is designated. So areas that are the least polluted areas in terms of ozone, it changes as the area gets more and more severely polluted.

Mr. Griffith. Okay. Kentucky's air regulator has raised concerns about the impacts on rural counties. In particular, he stated the statutory and regulatory offset requirements would severely restrict economic development in these rural counties since, by definition, the areas have no existing offset emissions available for any new sources. Rural counties would be disproportionately negatively impacted with little opportunity for economic development.

For rural counties, would States be able to seek relief from some of these offset requirements?

Ms. McCabe. There is actually a provision in the Clean Air Act that specifically focused on rural counties that may be in nonattainment because of transported air pollution. So we would work with any State that wanted to come forward and talk about rural counties.

Mr. Griffith. You represented or you said transported ozone.

The problem that I fear that some of my areas may have with the newer requirements as well is that it is not transported, but it is natural. As you know, trees produce volatile organic compounds, which combined with sunlight, produce ozone. Thus the name Smoky Mountains. Thus the name Blue Ridge Mountains because the mountains themselves with their trees produce ozones. So it is not necessarily transported ozone. It is ozone because we are in fact rural and have trees that produce some of this. It is not 80 percent, as Ronald Reagan once said, but it is a significant contributor, particularly in the rural areas like mine in the eastern Appalachians.

In fact, Scientific American in a June 1, 2014, story singled out or said, according to their research, black gum, poplar oak, and willow are significant producers of volatile organic compounds. So is there anything that would give us that offset, or do we have to go out into the forest, national or private, and say you got to cut the black gum, the poplar, the oak, and the willow, but it is okay to leave the birch, the linden, and the tulip, which apparently are low producers of VOCs, or volatile organic compounds?

Ms. McCabe. Well, as I mentioned in response to a previous question, what our science shows is that the areas that have significant challenges with background ozone are in the Rocky Mountains, the higher elevation areas. We are not seeing that kind of a situation with background in other areas of the country.

Mr. Griffith. So you think the central Appalachians will be okay?

Ms. McCabe. I do.

Mr. Griffith. But what about this offset? If it is not transported, would that rule also cover naturally occurring ozone?

Ms. McCabe. So as we look forward, I would be happy to get you this information --

Mr. Griffith. Please do.

Ms. McCabe. -- Mr. Griffith, on Virginia, particularly, but as we look at areas that are likely to be in nonattainment, we will look at air quality in future years to make those determinations, and I don't think we are seeing widespread nonattainment in rural areas. But in those areas where we do, there are opportunities there to work with those areas.

Mr. Griffith. All right. I appreciate the opportunity to work on it. I am concerned about it.

I am going to have to ask you some of these questions offline because time is precious and we don't get but so much, but if you could get us just some basic process on what the States have to do. What is the process for reviewing the State implementation plans? What is the range of time this process can take to complete, months or years? And if the EPA doesn't approve -- and I guess this is one I would ask you to answer at this time -- if the EPA doesn't approve a State's

implementation plan, what happens to the State? Does it become subject to a Federal plan? And would there then be litigation between the States and the EPA over that?

Ms. McCabe. Yeah. So the Clean Air Act lays out a lot of steps, depending on the severity of the area that dictates how much time the States have. But, typically, if an area is considered -- most areas the last time around were designated as marginal nonattainment, which means that they were not obliged to do a plan because they were expected to come into attainment and many do.

For ones that are moderate or above, they typically have 3 years to put a plan together. EPA works with those States to try to make sure that those plans are going to be approvable when they --

Mr. Griffith. What happens if their State plan is not approved?

Ms. McCabe. Generally, we work back and forth with the State to get it to a place where it is approvable.

Mr. Griffith. But what if it is not, what do you do?

Ms. McCabe. Well --

Mr. Griffith. Do you come up with a Federal plan?

Ms. McCabe. If a State really didn't want to make a plan that was approvable, which most States do, the Clean Air Act does provide that EPA would step into a Federal plan. But I have to say that that is very, very rare in this situation because -- both because States want to do their plans because they are possible to do them and because

we work hard with the States to make sure they can be successful.

Mr. Griffith. And I have got to go. But in those places where they don't want to because you have made the standard so low, you may see more litigation. Thank you.

Mr. Whitfield. At this time, I recognize the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

Some of my colleagues are quick to argue that EPA's proposed ozone standard will hurt the economy, but history tell us that cleaning up pollution can benefit the economy as well as human health and the environment. Since its enactment in 1970, the Clean Air Act provides a perfect example of how we can make steady progress in cleaning up the air while growing the economy.

So, Ms. McCabe, do we have to choose between clean air and economic growth? What does the history of the Clean Air Act tell us about our ability to cut pollution while building the economy?

Ms. McCabe. It actually shows us that the two things go hand in hand. We have reduced pollution dramatically, air pollution dramatically in this country. The economy has grown. We have also shown that this country has -- and businesses in this country have innovated, have come up with pollution-control technologies that employ American workers and make us leaders in the world on selling this kind of technology.

Mr. Pallone. When we talk about air pollution regulation, my Republican colleagues often focus on cost, but they aren't talking about the cost from exposure to unsafe air. They are talking about the cost of polluters of actually cleaning up their act.

So, again, Ms. McCabe, how do the costs and benefits of implementing the proposed ozone standards stack up?

Ms. McCabe. Well, we look at both. We lay both of those out, and in our analysis that we put out with our proposed rule, it showed that the benefits of this rule would outweigh the costs by three to one.

Mr. Pallone. And along those lines, the National Association of Manufacturers estimates the cost of this rule would be $140 billion annually, making the new ozone standard the most expensive rulemaking in history. My understanding is that EPA's cost estimate -- approved by the Office of Management and Budget -- was much lower. So would you tell us how much does EPA expect this standard to cost?

Ms. McCabe. Yes, our estimates -- and, again, these are illustrative because the States will make their own choices -- but our estimates are that at a level of 65 parts per billion, it would be in the range of 19 to 38 billion in the first standard of 70 parts per billion -- oh, sorry. I said that completely wrong.

The costs are -- range from 3.9 billion to 15 billion, depending on where the standard is.

Mr. Pallone. So this, based on your experience, that $140 billion price tag doesn't seem reasonable to you?

Ms. McCabe. It does not match our evaluation.

Mr. Pallone. Yeah. I mean, this concentration of cost, I think, has been misguided. Over the history of the Clean Air Act, industry has consistently exaggerated the potential cost of controlling pollution.

How have these doomsday predictions measured up to reality?

Ms. McCabe. Well, they haven't, given the information that folks have in front of them. In 1997, there were similar claims made that 1997 standards were going to kill the economy, and that absolutely hasn't come true.

Mr. Pallone. You know, I just wanted to ask you something based on some of my Republican colleagues. And I am not trying to be critical of them, but can you confirm this? Can you confirm that under EPA's projections for West Virginia and Virginia, there will be zero counties in 2025 that will exceed 65 or 70 parts per billion? Does that sound right to you?

Ms. McCabe. That does sound right to me.

Mr. Pallone. Okay. I have a minute and -- a little over a minute. Let me just get to some other questions about health- and science-based standards.

The Clean Air Act requires that EPA review the science behind the

National Ambient Air Quality Standards every 5 years to ensure the best information is used. EPA examined thousands of scientific studies when reviewing the ozone standard, and given this body of evidence, what are some of the health impacts associated with breathing air that contains ozone? And what groups of people are most at risk from breathing air containing ozone?

Ms. McCabe. So ozone can have a range of impacts on the respiratory system, inflammation of the lungs exacerbated, asthma, and this is especially significant for people who have asthma, for children, for the elderly, for people with compromised respiratory systems. The studies also show an association between premature mortality and exposure to ozone.

Mr. Pallone. So I understand that the Clean Air Scientific Advisory Committee and EPA scientists recommended that the Agency strengthen the ozone standard from 75 parts per billion to a level within the range of 60 to 70. So the Administrator has proposed to strengthen the standard to a level within the range of 65 to 70.

Is the proposed ozone level an aggressive or overzealous action by EPA as some may claim?

Ms. McCabe. We believe that the range that the Administrator proposed is very well supported by the scientific information and affirmed, as you just noted, by our external peer-review panel.

Mr. Pallone. Thank you very much.

Thank you, Mr. Chairman.

Mr. Whitfield. At this time, I recognize the gentleman from Missouri, Mr. Long, for 5 minutes.

Mr. Long. Thank you, Mr. Chairman.

Ms. McCabe, at the same time the EPA is moving forward with its proposed, or excuse me, with its proposed ozone rule, it is also proposing its clean power plan, which would require States to prepare plans to submit to the EPA.

How can we realistically expect EPA to manage several new rounds of State plan revisions that will be needed with the new ozone standard at the same time that they are reviewing plans for the clean power plan?

Ms. McCabe. Well, these are --

Mr. Long. That is going to take a lot of money and a lot of people, isn't it? And do you have those people and that money?

Ms. McCabe. These are important programs that the Clean Air Act directs us to implement, so we expect to use our resources to work with the States to get this work done.

Mr. Long. You expect to, but is it practical? Is it feasible? I mean, a lot of people want to do a lot of things, have lofty goals, but when push comes to shove, they can't get it done. Do you realistically think that this is something that the Agency can handle?

Ms. McCabe. I do, Congressman. This is our job to do, and we will make sure that we get it done.

Mr. Long. Okay. I know it is your job, but I just question how it can possibly, how you can have the resources, the time -- you are behind on several things already -- the time, the money, and the employees to accomplish the goal.

Ms. McCabe. Some of this work is overlapping as well, some of the technical work that we do in terms of air quality modeling, and it is efficient to do some of these things together. So --

Mr. Long. Some of the State plan revisions overlap?

Ms. McCabe. So the technical work that underlies the work that EPA and the States need to do in order to implement these programs.

Mr. Long. Okay. A few months ago, I met with some city officials from Springfield, Missouri, which is my hometown. I represent Springfield; Branson, Missouri; Joplin, Missouri; southwest part of Missouri. And they are one of the most forward-thinking cities and done more work on an integrated plan than about anyone. In fact, they were invited out to I believe it was Alexandria, and just them and one other city, I think some -- I can't remember now the other city, but there was only two cities in the United States that were invited out to present how they did their plan and what they do.

But, anyway, they discussed this integrated plan for implementing mandates from the Environmental Protection Agency, and after analyzing the cost of the mandates over the next 20 years, and I have heard some people speculate that, here today, that things are never as bad as they

seem, but if this was even 50 percent accurate, it is not doable. It is devastating. And they found that complying with the EPA mandates would cost each individual in my district, each of my 751,000 constituents, $46,000. Now, you can cut that in half if you would like and say 23, but anyway, and cut it in half again if you would like, but it is not feasible. It is not doable.

Missouri alone is looking at billions of dollars in compliance cost with the proposed ozone regulation and financial impact that it will have on everything from manufacturing to transportation. And it is going to, like I say, affect -- have an impact on each one of my constituents.

Do you all look at the comprehensive financial and economic impact to these regulations at all that they are going to have on the States and our constituents?

Ms. McCabe. Well, I am not familiar with exactly the study that you are talking about, Congressman, so I can't speak to that.

Mr. Long. I will get it to you. I will -- integrated plan for the City of Springfield for the next 20 years, I will be glad to provide that to you and your staff.

But let's say that you were familiar with it. At what point -- my question is, do you all look at the economic impact?

Ms. McCabe. We -- so each rule looks at its impacts in light of the rules that have come before it, and so there is an understanding

of the rules and the impacts, both benefits and costs, that are associated with trying to use programs.

Mr. Long. But there is a weight given to cost?

Ms. McCabe. I am sorry?

Mr. Long. There is a weight, there is a consideration given to the cost?

Ms. McCabe. Whenever we do regulations, there is an evaluation of cost and of benefits.

Mr. Long. Okay. I guess that that is -- I am about out of time anyway, and Morgan stole some of my notes, I think, and asked some of my questions.

So, anyway, with that, Mr. Chairman, I yield back.

Mr. Whitfield. At this time, the chair recognizes the gentleman from Texas, Mr. Flores, for 5 minutes.

Mr. Flores. Thank you, Mr. Chairman.

Administrator McCabe, thank you for joining us today. If you -- how does the market price risk? I mean, if you know something and you know what the cost is of something, it has a price, and you know that price. But if you don't know something, then the price is higher because you have risk, right?

Ms. McCabe. I --

Mr. Flores. Yes. Okay. In 2010, the EPA, when they proposed going to 60 parts per billion, said that that would cost $90 billion,

cost the economy $90 billion. In 2014, you reduced it to $40 billion. What happened over that 4-year period to make the cost go down?

Ms. McCabe. So I think what you are comparing is the proposal that was put out under the ozone reconsideration compared with the most recent one.

Mr. Flores. Now, just tell me what made it go down.

Ms. McCabe. Yeah. So, in that first one, we were looking at a change of the standard from the previous standard of 85 parts per billion to that level of in the range of 60 to 70.

Mr. Flores. So you weren't -- this is not a 75 to 60.

Ms. McCabe. That is right.

Mr. Flores. Okay. All right.

Ms. McCabe. Because that was a reconsideration of the prior standard.

Mr. Flores. Okay. Thank you. And in your proposal to go to either 70 or 65, a significant amount of the control technology doesn't exist today, and that is where the risk question comes in. So do you know what it costs to offset a ton of ozone in the Galveston-Houston area today?

Ms. McCabe. I don't.

Mr. Flores. It is about $170,000 a ton. So where did EPA price its unknown risk technology on a per ton of what is ozone?

Ms. McCabe. So we looked across the types --

Mr. Flores. Just give me a number.

Ms. McCabe. Oh, the number?

Mr. Flores. Yeah, just give me a number.

Ms. McCabe. I believe it was --

Mr. Flores. About $15,000.

Ms. McCabe. That is what I was going to say.

Mr. Flores. Yeah, $15,000. So if we know in Texas what the cost to offset a ton of ozone is and it is $170,000, where did we come up with $15,000 for imaginary technology that doesn't exist? Where in the world did that come from?

Ms. McCabe. By looking at the history of the costs of pollution control technology over the years, and this is actually a conservative estimate based on the actual cost to control pollution that we have seen over time.

Mr. Flores. Is that a publicly available document?

Ms. McCabe. All of our assumptions are publicly available.

Mr. Flores. Well, let me say that it doesn't pass the smell test when we know today what the cost is for an offset, and then you have imaginary technology that does not exist, and we just price it at a fire sale, give it a Wal-Mart price. That is crazy.

Let's talk about background ozone for a minute. Here is a map, background ozone map. Texas has about 70 parts per billion on average, 72 parts per billion, of background ozone. So if you take the level

to 65, what is Texas supposed to do, get a big vacuum and send it down to the ozone hole in Antarctica or what?

Ms. McCabe. Well, I am not familiar with that map, but that number doesn't sound right to me, Congressman.

Mr. Flores. Well, that is all right. Okay. Let's use something a little bit more discreet. How about Rocky Mountain National Park has a background of 77.

Ms. McCabe. Uh-huh.

Mr. Flores. There is no industry in Rocky Mountain National Park.

Ms. McCabe. As I mentioned, there are -- particularly in that part of the country, there are a few areas where we are seeing high background.

Mr. Flores. So what do you do? You said you had to have a national standard a minute ago, so how are you going to clean up Rocky National Park to take it to 65?

Ms. McCabe. Well, it is not responsible for cleaning up air pollution that it doesn't create, and the Clean Air Act provides mechanisms to make sure that --

Mr. Flores. So what is the mechanism? How do you clean up Rocky Mountain National Park?

Ms. McCabe. To the extent that pollution is coming from places that we can control.

Mr. Flores. Well, in this case, it is not.

Ms. McCabe. Well --

Mr. Flores. And 77-parts-per-billion background means, by definition, is not being produced there, it is coming from somewhere else.

Ms. McCabe. Right, so --

Mr. Flores. Natural occurring causes, or China.

Ms. McCabe. It it is coming from motor vehicles around the country that -- where that air pollution is coming into that area, our rules will help reduce that if it is coming --

Mr. Flores. Let's talk about RFS for a minute. Under your 2010 regulatory impact analysis of the renewal fuel standard, the EPA concluded that the program would contribute to ozone as a consequence of increased ethanol use.

Disregarding that all together, EPA recently proposed that its latest targets for RFS through 2016 would lead to higher levels of ethanol. And according to the studies of the Journal of Geophysical Research that measured ozones -- emissions of ozone forming VOCs from methanol refineries, it is five times higher than the EPA's original estimate.

So the EPA, on one hand, is saying: Okay, you have got to reduce to 65 to 75 parts per billion. On the other hand, you are trying to cram more ethanol in the system, which has a five times worse ozone

impact on the economy than does the production of regular gasoline. I will submit the rest of my questions in writing.

Thank you. I yield back.

Mr. Whitfield. The gentleman yields back.

At this time, I recognize the gentleman from North Carolina, Mr. Hudson, for 5 minutes.

Mr. Hudson. Thank you, Mr. Chairman.

And thank you, Administrator, for being here today. I represent rural North Carolina. I grew up with a love for the outdoors, and I certainly understand our -- the importance of protecting the environment. But like many of my colleagues, I do have concerns about this proposed rule, and I thought it was fascinating my colleague from Florida, Ms. Castor said that the air in Tampa, Florida, is clean, that it used to be polluted but now it is clean. But I looked up Hillsborough County, Florida, and the ozone levels are 71. So even by her definition it is clean, I believe her, but even Tampa, Florida, would be out of attainment.

And what I really want to talk about is one of my counties, Montgomery County, North Carolina. It is a very rural county. A majority of the county is part of Uwharrie National Forest. This county has been disseminated with job loss. We have lost manufacturing jobs. There is no major significant industry in the county. Yet this county has 66 parts per billion in ozone, so it would be out of

attainment if the standard were 65.

And, again, this is a beautiful county. It has got two rivers. It has got a lake. The air quality is wonderful. It is a rural beautiful community. What would the EPA do with a county in a situation like that?

Ms. McCabe. Well, I think we need to be careful about making assumptions about which counties will be and won't be nonattainment, because we don't know that. We don't know what a final standard will be if a decision is made to revise it, but also those decisions will be made based on future air-quality data. They will be -- the numbers that I believe you are citing are based on air-quality data from 2011 to 2013.

We will use current, most recent air-quality data when we make those decisions. And air quality is trending in a good direction. So I think we need to not assume an area will be -- will or won't be nonattainment based on information that is from prior years.

Mr. Hudson. So do you think the level will stay above 70?

Ms. McCabe. Which level?

Mr. Hudson. That EPA sets for air quality?

Ms. McCabe. No, I am not speaking to what decision might be finally made. I am speaking to the information that people are citing about whether areas based on air quality now will be in attainment if there is a revision to the standard, and we just don't know that.

That being said, we have talked, and I understand the comments that many of the members have made about being concerned about rural areas. And we do have the ability to work with those areas. The Clean Air Act does recognize that there are areas that don't control their air quality, and they don't -- the Clean Air Act doesn't hold those areas responsible for reducing pollution if it is not being produced there.

Mr. Hudson. Well, I appreciate that. And, obviously, a county like Montgomery County desperately needs jobs, and if we get to a nonattainment situation where we can't hire new people, we can't attract new industry, it is devastating.

So what specifically would Montgomery County, North Carolina, do if hypothetically it were in nonattainment? Do we file a lawsuit against a local city? Or, I mean, how do you --

Ms. McCabe. Well, programs like the motor vehicle standards will improve air quality everywhere in the country where motor vehicles are used. This is an example of how the Federal-State partnership works where Federal programs bring cleaner air all across the country and will take care of the air pollution in many areas where there is not a lot of local industry that is contributing.

Mr. Hudson. So we would have to give up our pickup trucks and suburbans? Is that --

Ms. McCabe. No, no, no. As the fleet turns over, as people buy

newer cars, the fuels are getting cleaner, and so air quality will improve.

Mr. Hudson. What percentage do you think motor vehicles contribute to that?

Ms. McCabe. Well, motor vehicles generally, contribute about a third of the air pollution in the country, and see, it is not just cars driven in Montgomery County. It is cars driven in the region that are contributing to regional air pollution.

Mr. Hudson. Well, I appreciate that.

And, Mr. Chairman, I have three resolutions I would like to insert in the record: One is from Cabarrus Regional Chamber of Commerce; another is from Rowan County Board of Commissioners; and a third is from the Cabarrus-Rowan Urban Area Metropolitan Planning Organization. All these organizations oppose this new standard, and I seek unanimous consent to have them inserted in the record at this time.

Mr. Whitfield. Without objection, so ordered.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Hudson. Well, thank you. You know, I would again thank you for your testimony, but I just have concerns that we are setting standards so low that they are not attainable, and when rural areas that aren't near industrial areas or not near big cities can't reach the attainment, a significant portion, 10 of the 12 rural counties in my district, I think we may be -- we may be using the wrong metric. So that is my concern. Thank you.

Mr. Chairman, I yield back.

Mr. Whitfield. The gentleman yields back.

At this time, I recognize the gentlelady from North Carolina, Mrs. Ellmers, for 5 minutes.

Mrs. Ellmers. Thank you, Mr. Chairman.

And thank you, Ms. McCabe, for being with us today.

You know, I just want to start off, as my colleague from North Carolina was pointing out, basically the concerns that we have in North Carolina, you know, just in our home State alone, this rule will kill over 13,000 jobs a year and decrease the State's GDP drastically at a time when we can afford it the least. This proposal raises serious concerns, and I look forward to this discussion. I definitely have some questions for you.

Starting off with, in September of 2011, President Obama requested that your Agency withdraw its proposed ozone standard based on his, quote, "concerns about the importance of reducing regulatory

burdens and regulatory uncertainty, particularly as our economy continues to recover," end quote.

Your Agency agreed to withdraw the proposed standard, and now you are issuing the revised standard. Can you tell us what changes you made to decrease the regulatory burden which now allows you to move forward?

Ms. McCabe. Well, first, let me explain that at that time, the Agency was engaged in a reconsideration of the 2008 ozone standard, which was not a mandatory duty. We are under a mandatory duty to relook at the standard every 5 years. It was last reviewed in 2008, so this is our required review.

Mrs. Ellmers. So there are less regulations now?

Ms. McCabe. This is about science. This particular decision is about science and public health and what the science says about what is healthy in the air to breathe. Implementation --

Mrs. Ellmers. But that -- ma'am, just to -- not to interrupt you, but to point out that the President said that he was asking for you to decrease the amount of regulations. What regulations have you decreased which can move us forward? I understand you are looking at the science. I am a nurse. I understand science. But what is it that you have done to make this process move forward so that we can all come together and work on it?

Ms. McCabe. Well, we put out regulations like the Tier 3

regulation that I mentioned a minute ago, which will bring improved air quality all across the country. That is -- things that States won't have to do themselves.

Mrs. Ellmers. Is that less cumbersome than what existed in 2008?

Ms. McCabe. It is a provision that will help States and municipalities meet the ozone standard.

Mrs. Ellmers. Okay. Moving on.

You know, the first question that any economic developer asks when locating new plants or considering expansion of an existing plant is the attainment status, and I know my colleague from North Carolina, we were having this conversation just a moment ago.

Areas designated as nonattainment are immediately excluded from consideration. The Clean Air Act requires that the Clean Air Scientific Advisory Committee to advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such National Ambient Air Quality Standards.

Given the adverse economic impact of a revised standard, why are you not requiring CASAC to take all of these things into consideration in regard to economic development?

Ms. McCabe. In setting the health standard, we have been specifically directed by the Supreme Court that looking at the implementation implications is not part of setting the health standard.

And so in this --

Mrs. Ellmers. So the Supreme Court told you that economic development is not significant and should not be considered.

Ms. McCabe. Is not relevant to the setting of the public health standard.

Mrs. Ellmers. Okay. Moving on.

Nonattainment designation indiscriminately reduces development, including development associated with military bases. This is particularly important for North Carolina as we have many strong military presence there.

This standard of the level at the near national background as is currently being considered will potentially limit military expansion and place at risk our military readiness. How is your Agency planning on ensuring that your revised ozone standard will not jeopardize national security?

Ms. McCabe. Congresswoman, I am not aware of any instance in which the ozone standard has interfered with our military readiness.

Mrs. Ellmers. Well, then I would love to work with your office because my understanding is there are some situations especially affecting some of our North Carolina bases now that this will dramatically affect, so I would like to continue that conversation.

Ms. McCabe. We will be glad to follow up.

Mrs. Ellmers. Great. Now, lastly, and I have got 31 seconds. You know, part of this continued problem is how are manufacturers going to be able to deal with this technology. If a manufacturer simply cannot meet these standards, what are their options? Are they to buy expensive offsets? Are they to close their doors? What do we do? How do we help our manufacturers?

Ms. McCabe. We work with the States and with the business industry, we look at the -- where the pollution is coming from, and we develop programs that are targeted towards addressing the most cost-effective reductions, and that is what we have done through the whole history of the Clean Air Act, where manufacturing has moved forward, has implemented new technologies, has been able to grow.

Mrs. Ellmers. Do existing controls exist right now to achieve the 60-parts-per-billion standard or the 65-parts-per-billion standard?

Ms. McCabe. Well, keep in mind the Administrator has not proposed the 60 parts per billion standard. When we looked at the range of 65 to 70, which is what she proposed --

Mrs. Ellmers. Uh-huh.

Ms. McCabe. We identified a number of already existing controls that will get --

Mrs. Ellmers. What are those existing controls?

Ms. McCabe. Things like cleaner engines, scrubbers, NAAQS

controls, lower VOC paints and coatings, a variety of technologies that have been developed over the years that many areas are not yet employing that could be employed.

Mrs. Ellmers. Thank you.

I yield back.

Mr. Whitfield. The gentlelady's time has expired.

At this time, I recognize the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. Johnson. Thank you, Mr. Chairman.

And Ms. McCabe, thanks for joining us again today. You know, increased access to low-cost sustainable domestic natural gas production has helped tremendously in fueling the manufacturing renaissance in this country. This expansion has resulted not only in cleaner gas and electricity for manufacturers but also provides a new source of natural gas liquids, which are essential feed stocks in many major manufacturing applications, such as chemicals and plastics.

A study conducted by the consulting firm NERA, frequently contracted by the Department of Energy, among others, shows dramatic cost increases in the price of natural gas under a 60-parts-per-billion standard. The study projects a 52-percent increase in the cost of natural gas for industrial use under a 60-parts-per-billion standard.

So quick question. Can we expect our manufacturing renaissance to continue under this type of scenario?

Ms. McCabe. I can't speak to that study specifically, but I know that there certainly has been a significant increase in the development of natural gas. It is a very important --

Mr. Johnson. We know that, but what I am asking you is when we are essentially taxing it with these standards. And I might point out to you that in a recent trip that we made to Europe, ratepayers, businesses and residential ratepayers in Europe are taking a strong second look at their energy profiles because of this exact problem, making their businesses noncompetitive and their unwillingness to pay the exorbitant high prices for energy that is going to result from a rule like this.

So how can we expect the manufacturing renaissance to continue when we are taxing essentially the very energy that is providing that renaissance?

Ms. McCabe. Well, I don't think we are taxing the energy --

Mr. Johnson. Well, sure you are. If you get a 52-percent increase in the cost of natural gas under a 62-parts-per-billion standard, that is essentially a tax.

Ms. McCabe. Well, I --

Mr. Johnson. You can call it whatever you want to, but it is a tax on the industry.

Ms. McCabe. Well, I am not sure that I agree with the --

Mr. Johnson. Okay. Well, we will agree to disagree. Let me

move on. Let me focus on how the EPA has calculated the benefits of its proposed ozone standard. And here is the issue in a nutshell: Instead of calculating only the benefits from reducing nitrogen oxides and volatile organic compounds, the constituents of ozone, which are emitted from cars, trucks, and stationary sources, EPA also incorporated the cobenefits from reducing particulate matter, or PM, from those same sources. Of course, this rulemaking has nothing to do with particulate matter. EPA has a separate National Ambient Air Quality Standard for particulate matter, not to mention multiple other rules to regulate it under the Clean Air Act.

But without the benefits from PM reductions, the ozone rule would have very little to show for it. In fact, Dr. Anne Smith of NERA has pointed out that these PM cobenefits are actually larger than the direct ozone related benefits from the rule. If you don't accept NERA's assessment, then how about Cass Sunstein, the former head of OMB's Office of Information and Regulatory Affairs. He reviewed the ozone reconsideration in 2011 and helped prevent that proposal from being finalized because it was too costly.

Here is what he said about this, and I quote: But on some of the Agency's estimates of the 2011 ozone proposal, the net benefits would have been zero. Moreover, a strong majority of the benefits would have resulted not from ozone reductions but from cobenefit reductions in particulate matter, which come as an incidental benefit of the

technologies that reduce ozone emissions.

So, Ms. McCabe, this prompts a number of questions. First, can you explain to me and our committee the EPA's legal justification for engaging in this kind of double counting? How is it that you can justify a lower ozone standard using benefits from an entirely different pollutant?

Ms. McCabe. Well, it is not double counting.

Mr. Johnson. That is not science. You know, that is a shell game. That is what that is. That is not science.

Ms. McCabe. It is not double counting. Those benefits are real.

Mr. Johnson. Those benefits - but that is not what you are -- that is not what this rule -- this rule is supposed to be going after ozone, not particulate matter.

Ms. McCabe. But it is having additional benefits to the --

Mr. Johnson. But very little in terms of the ozone. Very little in terms of the ozone in comparison with the benefits that are coming from particulate matter.

Further, talk to me about how transparent you have been with this to the American public. I mean, there are charts buried in the proposed rule where somebody maybe with a Ph.D. can go infer this information about double counting, but have you or the Administrator explained this issue in your speeches and public statements about the ozone? Have you told the American people that the benefits are coming from somewhere

else, from a pollutant that is already well regulated by the EPA?

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[12:40 p.m.]

Ms. McCabe. We're very clear. And I myself personally have talked about co-benefits that are achieved by programs that we implement.

Mr. Johnson. Yeah. Well, I think it is a shell game, Ms. McCabe, and I think it is economically destructive to my region of the country and to other industries that are providing the jobs and the economic vitality of America today.

Mr. Chairman, I yield back.

Mr. Whitfield. The gentleman yields back.

I have a couple of other questions I want to ask her, Mr. Rush, and then --

I wanted to ask you a couple of other questions, Ms. McCabe.

The Science Advisory Committee is appointed by who?

Ms. McCabe. The Science Advisory Committee is -- there is an office within EPA that administers the Science Advisory Board and has a very open process for --

Mr. Whitfield. But the people who serve on the Science Advisory Committee, how are they selected?

Ms. McCabe. They are nominated.

Mr. Whitfield. By who?

Ms. McCabe. Either by themselves or by others, and that is through a public process.

Mr. Whitfield. And then who makes the decision of who serves?

Ms. McCabe. That is a decision made within the Agency by our Office of the Science --

Mr. Whitfield. So EPA decides who serves on the science committee?

Ms. McCabe. Through a robust public process.

Mr. Whitfield. Okay. And how long do they serve?

Ms. McCabe. I don't know the answer to that.

Mr. Whitfield. And how many people serve on that committee?

Ms. McCabe. I don't know the answer to that.

Mr. Whitfield. Could you get us a list of the names of people on the committee and how long their term of office is?

Ms. McCabe. Yes. Yes. I believe it is, you know, on the order of 4 to 6 years, something like that.

Mr. Whitfield. Okay. Thank you.

Mr. Rush. Ms. McCabe, how long has that committee been in existence?

Ms. McCabe. How long has --

Mr. Rush. How long has it been in existence?

Ms. McCabe. The Agency?

Mr. Rush. No. The science committee.

Ms. McCabe. Gosh, I don't know, Congressman Rush. But we can certainly find out. Many, many years. Many years.

Mr. Rush. Through both Republican and Democratic administrations?

Ms. McCabe. Yes. Absolutely. And the committees and the panels are very well balanced to make sure that there is a range of views represented.

Mr. Rush. Would you say that it is bipartisan?

Ms. McCabe. Yes, I would.

Mr. Rush. Okay. Oh, yeah. Mr. Chairman, I have one more question.

Ms. McCabe, we keep hearing about the President's decision in 2010 on the ozone standard, and let me read from that. With that in mind, this is what I want to read.

Statement by the President: "Work is already underway to update a 2006 review of the science that would result in the reconsideration of the ozone standard in 2013. Ultimately" -- and this comes directly from the President on the ozone National Ambient Air Quality Standards issued on September 2, 2011 -- "Ultimately, I did not support asking State and local governments to begin implementing a new standard that will soon be reconsidered."

Do you have any comments? Do you remember that statement by the

President?

Ms. McCabe. Yeah. So the President was recognizing that the regular 5-year review of the ozone standard was already underway, and that is what he was directing the Agency to focus its attention on.

If I could just clarify something I said before, Congressman Rush, I agreed with your characterization of the Science Advisory Board as bipartisan. I think it is probably more accurate to call it nonpartisan.

Mr. Rush. Nonpartisan. Okay. All right. Well, thank you so much.

Mr. Chairman, I don't have any additional questions, but I do have a unanimous consent request to enter into the record a letter from the Public Health Organization opposing legislation or amendments that would block or delay EPA's work to update ozone standards and, also, a letter from the National Association of Clean Air Agencies supporting the EPA's proposal to revise the current ozone air standards. And I ask for unanimous consent that they be entered into the record.

Mr. Whitfield. Without objection, so ordered.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Rush. With that, I yield back the balance of my time.

Mr. Whitfield. And then I would also like to ask unanimous consent that the following documents be entered into the record: Number one, a survey released by the Association of Air Pollution Control Agencies entitled "State Environmental Agency Perspectives on Background Ozone and Regulatory Relief"; number two, a June 2015 article from the Journal of Science entitled "Challenges of a Lowered U.S. Ozone Standard"; and, number three, comments of one of the Texas Commission on Environmental Quality on EPA's Proposed Ozone Rule -- a Texas commissioner's comments.

Without objection, that will be entered into the record as well.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Whitfield. And that concludes today's hearing.

Once again, Ms. McCabe, thank you for being with us. We look forward to continuing engagement with you as we move forward.

And we will keep the record open for 10 days for any additional questions or comments or materials.

And, with that, the hearing is now adjourned.

[Whereupon, at 12:45 p.m., the subcommittee was adjourned.]