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EPA'S PROPOSED OZONE RULE: POTENTIAL IMPACTS ON MANUFACTURING

TUESDAY, JUNE 16, 2015

House of Representatives,

Subcommittee on Commerce, Manufacturing, and Trade

Joint with the

Subcommittee on Energy and Power

Committee on Energy and Commerce

Washington, D.C.

The subcommittees met, pursuant to call, at 10:15 a.m., in Room 2322 of the Rayburn House Office Building, Hon. Ed Whitfield [Chairman of the Subcommittee on Energy and Power] presiding.

Members present: Representatives Whitfield, Shimkus, Burgess, Blackburn, Latta, Harper, Lance, Guthrie, Olson,

McKinley, Kinzinger, Griffith, Bilirakis, Johnson, Ellmers, Flores, Mullin, Hudson, Rush, Schakowsky, Butterfield, Sarbanes, Welch, Yarmuth, Clarke, Loebsack, Kennedy, Cardenas, and Pallone (ex officio).

Staff present: Clay Alspach, Chief Counsel; Will Batson, Legislative Clerk; Leighton Brown, Press Assistant; Allison Busbee, Policy Coordinator, Energy and Power; James Decker, Policy Coordinator, Commerce, Manufacturing, and Trade; Melissa Froelich, Counsel, Commerce, Manufacturing, and Trade; Tom Hassenboehler, Chief Counsel, Energy and Power; Kirby Howard, Legislative Clerk; A.T. Johnston, Senior Policy Advisor; Peter Kielty, Deputy General Counsel; Paul Nagle, Chief Counsel, Commerce, Manufacturing, and Trade; Mary Neumayr, Senior Energy Counsel; Dan Schneider, Press Secretary; Lisa Goldman, Democratic Counsel; Michael Goo, Democratic Chief Counsel, Energy and Environment; Tiffany Guarascio, Democratic Deputy Staff Director and Chief Health Advisor; Caitlin Haberman, Democratic Professional Staff Member; Ashley Jones, Democratic Director of Communications, Member Services and Outreach; Adam Lowenstein, Democratic Policy Analyst; John Marshall, Democratic Policy Coordinator; and Alexander Ratner, Democratic Policy Analyst.

Mr. {Whitfield.} I would like to call the hearing to order this morning and certainly want to thank our panel of witnesses. We appreciate your being here with us this morning to discuss the proposed ozone rule. As you know, we have had a number of hearings on this subject matter, and today we are doing a joint hearing with the Subcommittee on Commerce, Manufacturing, and Trade. And each one of us that will be giving opening statements will be given 3 minutes, and then I am going to introduce each one of you individually right before you give your opening statement, and you will be give 5 minutes. We get 3, you get 5. But then we will have the opportunity to question you as well. So thanks for being with us. And at this time I would like to recognize myself for an opening statement.

We have watched the Obama Administration propose and finalize a litany of rules for more than 6 years now, and I can't tell you now how many hearings we have held. I and many others have come to the conclusion that EPA is no longer an independent and impartial arbiter of our environmental laws but has become a politicized extension of the White House to implement the President's Clean Energy Plan.

When EPA testifies, they always refer to the EPA's

Scientific Advisory Committee. Now this is a body appointed by EPA. The public does not really have any idea who is on this Advisory Committee, and truthfully, we all understand the importance of science but whether or not they are independent and impartial or have they also become a politicized arm of the White House.

Now, the reason given for adopting a more stringent ozone rule relates to healthcare which is vitally important. To quote Ms. McCabe, a 70 parts per billion standard would prevent an estimated 330,000 missed school days, 320,000 asthma attacks, and 710 to 1,400 premature deaths. Now, that is an important statistic, all of those are, and one that we all would applaud. But today it is a lot different when this Clean Air Act was first administered, and it is important that we understand that cost.

We have listened to many experts over the past 6 years who have pointed out that there is a direct correlation between poverty and healthy living. That also is important because EPA in its Scientific Advisory Committee do not consider the impact of these regulations on jobs. In April of this year, the Global Market Institute, an arm of Goldman Sachs, concluded a study that found for example that the number of small businesses which has been the backbone of

America prosperity, the number of small businesses between 2009 and 2014 declined by 600,000. Usually after an economic crisis there is a slow increase. But that is not the case in small business. There are 600,000 less today than 2009 and 6 million fewer jobs. In fact, small business jobs have been declining at roughly 700 per month the last 3 years for which statistics are available. And this report goes onto say the reason for this is one, the availability of credit and the high interest cost, the high cost of capital because of banking regulations that came out of the crisis. In addition, it specifically lists other regulations relating to healthcare, relating to the environmental issues throughout our government.

And so the point is this. Yes, there is a benefit in healthcare with new regulations on ozone, but we have to also consider the impact of people and their families who have lost jobs and the impact on their healthcare. There has got to be some discussion about that as 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 Illinois, Mr. Rush, for his 3-minute opening statement. I am sorry. At this time I would like to recognize the gentlelady from Illinois, Ms. Schakowsky, for 3 minutes.

Ms. {Schakowsky.} Thank you, Chairman Whitfield and Chairman Burgess, for holding this hearing, and despite my great affection for Chairman Whitfield, I have to say that I don't agree at all that the EPA is operating in a political manner. And let's make it clear: The EPA is responsible for setting ozone standards based on what is considered safe from a public health perspective. The compliance costs to business are not to be considered in its rule-making.

Health experts, epidemiologists, numerous medical organizations have clearly stated that the current ozone standard of 75 parts per billion is not adequate to protect public health, particularly for vulnerable populations such as children, the elderly, outdoor workers, those with chronic medical conditions like asthma. The EPA has indicated its final rule due in October will likely land somewhere between 65 and 70 parts per billion. I strongly support EPA action on this issue, although I believe a 60 part per billion

standard would be more effective to protect the public health.

The existing standards are not doing enough to protect public health. In my home State of Illinois, 13 percent of children, 13 percent, suffer from smog-related asthma, well above the national average. In response to mounting medical evidence and Clean Air Act requirements, the federal courts rightly directed the EPA to reconsider existing inadequate health protections against smog last year. Let me repeat. This rule-making is court mandated. Federal law requires the EPA to maintain clean air standards, and the courts have said it must do more to meet that requirement.

While anticipated business compliance costs have no place in determining ozone standards, industry concerns about the impacts of rule-making are overblown. We will hear from some of our witnesses that proposed ozone standards would stifle manufacturing, investment, and expansion. That argument is not new but it is flawed. Since the Clean Air Act was enacted into law more than 40 years ago, we have seen tremendous progress in cleaning up our air and in protecting thousands of communities around the country. That has been done in concert with technological innovation and a growing economy.

Doomsday predictions about the impact of EPA regulations on American businesses have never been borne out by the facts. From 1990 to 2010 emissions of the most common air pollutants have declined by more than 40 percent while Gross Domestic Product has increased by more than 65 percent. These standards will save and improve American lives.

I look forward to the EPA finalizing the rule and to the manufacturing sector to continuing its long record of success and expanding while at the same time complying with EPA regulations. Again, I look forward to hearing from our witnesses, to gain from their perspectives on this important rule-making, and I yield back the balance of my time.

[The prepared statement of Ms. Schakowsky follows:]

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Mr. {Whitfield.} The gentlelady yields back the balance of her time. At this time I would like to recognize the gentleman from Texas, the Chairman of the Commerce Subcommittee that we are having the hearing with, Mr. Burgess. You are recognized for 3 minutes.

Mr. {Burgess.} Thank you, Chairman Whitfield, and thank you for agreeing to have this joint hearing with the Subcommittee on Commerce, Manufacturing, and Trade along with the Energy Subcommittee. So the Environmental Protection Agency's proposal to further reduce the National Ambient Air Quality Standard for ozone represents perhaps one of the most costly regulations the agency has ever imposed upon the United States' economy, and it is a recurring theme with the administration, an unprecedented and overly burdensome regulatory proposal while there is still ongoing debate about the science and the public health benefits in enacting such a rule.

So again, I want to thank my counterpart on the Energy and Power Subcommittee, Chairman Whitfield, and I want to thank our panel of witnesses for joining us today to talk about both of our subcommittees' work on the impact of EPA's proposed ozone rule on manufacturing.

The simple fact remains that this type of regulatory overreach may be injurious to America's families and jobs. As a physician, the health of all of our citizens is of significant importance to me as well as everyone on the committee, and we know from other conversations occurring throughout this committee, the cost of health care is a real concern for Americans. However, I have reservations about the science and the analysis utilized by the Environmental Protection Agency to support the proposed rule and whether it would be effective.

The 43,000 comments filed with the Environmental Protection Agency about the proposed rule demonstrate that there is a lot of interest, there is a lot of activity, and there may not be a lot of certainty. There is important debate that needs to occur to identify the actual benefits to justify the effect on job creation.

I have written to the Environmental Protection Agency on several occasions over the past few years on issues relating to the rule, most recently regarding the Clean Air Scientific Advisory Committee's evaluation of the risks and the tradeoffs of the ozone proposal. I remain concerned about the scientific process utilized by the Environmental Protection Agency to draw a causal inference about the impact

of lowering the National Ambient Air Quality Standard from 75 parts per billion by as much as 5, 10, or 15 parts per billion.

Given that the implementation for the regulations for the 2008 standard of 75 parts per billion were only finalized earlier this year, what will be the proposed rule's impact on states and localities that are already dealing with non-attainment including counties in my district around the Washington Metropolitan Area and counties in the North Texas area?

The National Association of Manufacturers estimates that for Texas this rule could result in 300,000 lost jobs and almost a $1,500 drop in annual household consumption. When there are disincentives to investment in a local economy, either from businesses looking to build and expand or from families trying to make ends meet, we have to pay attention. We have to ask the tough questions. There are going to be a lot of questions for the EPA and for our witnesses today. I am focused on learning about the expected impacts of the EPA's proposed rule and the effect on public health.

Thank you, Mr. Chairman. I will yield back the time.

[The prepared statement of Mr. Burgess follows:]

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Mr. {Whitfield.} At this time the chair recognizes the gentleman from Illinois, Mr. Rush, for 3 minutes.

Mr. {Rush.} I want to thank you, Mr. Chairman, for holding this important joint hearing on EPA's proposed ozone rule and its potential impact on the manufacturing sector.

Mr. Chairman, last week we heard from EPA's Acting Assistant Administrator for air and radiation, Janet McCabe, that lowering the ozone standard from 75 ppb would literally save lives while also preventing hundreds of thousands of missed school days and missed work days and preventing hundreds of thousands of asthma attacks.

Today, Mr. Chairman, we will hear from industry groups that lower the ozone standard will cause great job loss, will damage our economy, and will lead to unprecedented costs. Well, Mr. Chairman, as policymakers, we are always searching to find the right balance between protecting our air and water through regulations without unnecessarily saddling industry with unreasonable burdens that might stifle growth. And today, Mr. Chairman, we will hear about competing studies with conflicting results on everything from potential health benefits to economic growth to the impacts on employment. However, I think it is instructive to look at how these types

of regulations have played out in our most recent past, and if our most recent past is any indication, Mr. Chairman, then I am not fully convinced that this is an either/or proposition that we are confronted with, that Americans must choose between either economic strength or clean air. As Ms. McCabe noted in the hearing last week, Mr. Chairman, and I quote her, the history of the Clean Air Act actually shows us and all of those who are willing to take a look at it that the two things go together, two things go together. We have reduced air pollution dramatically in this country, and the economy has blossomed. It has grown.

Mr. Chairman, this country and the businesses in this country have come up with pollution control technologies that employ American workers, and these new technologies have made us leaders in the world through selling this kind of technology.

So I look forward to engaging the panelists so that we can both protect the public health by reducing ozone in our atmosphere, and we can also create most needed jobs and economic opportunities for American businesses and their families.

And with that, Mr. Chairman, 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. At this time the Chair would recognize the Vice Chairman of the Full Committee, Mrs. Blackburn, of Tennessee for 3 minutes.

Mrs. {Blackburn.} Thank you, Mr. Chairman, and I thank all of our witnesses for the hearing today. This is indeed something that we want to drill down a little deeper on and look at these regulations. Everybody is for clean air and clean water, and there is no argument about that. What we have tremendous concerns about is when you get to the point of diminishing return. And that is something you will be able to help us with today. What we have found is if the EPA is not given to doing cost-benefit analysis, and Dr. Burgess referenced that and the injurious nature of some of these regulations at times and the harm that it does to business, the cost that is there, and the outcome that ends up not being delivered. And you are not, if you will, getting the bang for your buck when you look at these regulations.

So I think that we will want to look at this cost. A trillion dollars? A trillion dollars is what the compliance cost is for this, for industry? What does that do to families? What does it do to jobs? What does it do to local communities?

And those are questions that we are going to want to ask in addition to what does it mean to the environment. If you don't have jobs and if you don't have local, vibrant communities, you are not going to see people who are investing the time and the energy to clean up the environment or to innovate to find a better way.

So we thank you for your participation. We look forward to your questions today. Yield back.

[The prepared statement of Mrs. Blackburn follows:]

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Mr. {Whitfield.} The gentlelady yields back. At this time I recognize the gentleman from New Jersey, Mr. Pallone, for 3 minutes.

Mr. {Pallone.} Thank you, Chairmen Whitfield and Burgess and our Ranking Members Rush and Schakowsky, for holding this hearing. I also wanted to welcome all of our panelists.

We heard some great things about the importance of the proposed ozone rule last week from EPA Acting Assistant Administrator Janet McCabe. Under the proposed standard, we would see tremendous public health benefits. EPA's new standard will avoid nearly 1 million asthma attacks, millions of missed school days, and thousands of premature deaths.

EPA estimates these benefits would range from $13 to $38 billion annually, outweighing the cost by approximately 3 to 1. In addition, it is consistent with the law and scientific evidence.

The proposed ozone standard is part of a set of health-based air-quality standards which make up the foundation of the Clean Air Act. These standards are based on scientific evidence alone and have been extremely effective in cleaning the air and protecting public health.

The current 75 parts-per-billion standard is weaker than the facts would allow. So EPA has proposed based on a complete review of the scientific evidence to revise the standard to fall within 65 to 70 parts per billion as recommended. I am sure today we will hear more about the cost than the benefits, yet a unanimous Supreme Court opinion written by Justice Scalia made it clear that EPA's approach for determining a safe level of air pollution is correct and costs may not be considered.

During today's hearing I urge everyone to keep in mind that the grossly inflated estimate of the rule's projected costs failed to consider any of the benefits associated with reducing ozone pollution. This ignores the real cost of poor air quality that are borne by those who breathe, especially children.

We will also be told that EPA's proposed standard will have dire consequences for economic growth, but the history of the Clean Air Act is one of exaggerated claims by industry that have never come true. In reality, the act has produced public health benefits while supporting economic growth.

As I said last week, EPA's ozone standard is long overdue, and this rule will help put us on the path to reaching the goal of the Clean Air Act, clean air for all

Americans. Thank you, and I yield back my time.

[The prepared statement of Mr. Pallone follows:]

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Mr. {Whitfield.} The gentleman yields back, and that concludes the opening statements. And at this time we will get to our panel of witnesses.

And our first witness his morning is Mr. Ross Eisenberg who is Vice President for Energy and Resource Policy at the National Association of Manufacturers. And Mr. Eisenberg, you are recognized for 5 minutes.

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^STATEMENTS OF ROSS E. EISENBERG, VICE PRESIDENT, ENERGY AND RESOURCES POLICY, NATIONAL ASSOCIATION OF MANUFACTURERS; ERIN MONROE WESLEY, EXECUTIVE VICE PRESIDENT AND CHIEF OPERATING OFFICER, BATON ROUGE AREA CHAMBER; ROBERT L. GLICKSMAN, J.B. AND MAURICE C. SHAPIRO PROFESSOR OF ENVIRONMENTAL LAW, GEORGE WASHINGTON UNIVERSITY SCHOOL OF LAW; GREGORY B. DIETTE, M.D., PROFESSOR OF MEDICINE, JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE, ON BEHALF OF THE AMERICAN THORACIC SOCIETY; LOUIS ANTHONY COX, JR., PH.D., PRESIDENT, COX ASSOCIATES; STACEY-ANN TAYLOR, DIRECTOR, PRODUCT STEWARDSHIP, HENRY COMPANY; AND MICHAEL FREEMAN, DIVISION PRESIDENT, THE AMERICAS WD-40 COMPANY

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^STATEMENT OF ROSS EISENBERG

} Mr. {Eisenberg.} Thank you. Good morning, Chairmen, Ranking Members, members of the subcommittees. I am pleased to represent the NAM, the world's largest industrial trade association here at today's hearing.

Manufacturing is building communities and fueling growth all over America. The factory that our grandfathers worked in is really not what you see today. It has been transformed

into a sleek, modern, technology-driven facility that strengthens communities and creates jobs for us and for our children. We are building cleaner and more efficient automobiles. We are using cleaner fuels, and we are operating better, more efficient factories. Since 1990, our NOx emissions have decreased 52 percent and VOC emissions by 70 percent. As a country, ozone levels have fallen nearly 25 percent since 1990, and the air is unequivocally better. This fact really has not escaped the public, either. Tomorrow, the NAM will release a poll showing that over 2/3 of Americans rate their local air quality as excellent or good.

Manufactures support reducing ozone, and we believe in the mission of the EPA. But we come before Congress and this committee today seeking help. The EPA has proposed a regulation that pushes beyond the limits of what may be technologically feasible resulting in what could be the most expensive regulation ever. EPA has proposed new ozone standards for which you can only identify about 35 percent of the necessary technologies to achieve that new standard while relying on so-called unknown controls for nearly 65 percent of the path to compliance. This is not a balanced policy, and it is not an achievable rule.

We surveyed our members recently, and over 66 percent of manufacturers are concerned with how new ozone standards will impact their business. More than half of them, 53.5 percent, said they are not likely to move forward with projects in ozone non-attainment areas. So--but don't just take it from us. Take it from the hundreds of governors, lieutenant governors, environmental agencies, air directors, attorneys general, mayors, counties, cities, highway officials, state representatives, Democrats, Republicans, unions, industry groups, and chambers of commerce who have sent letters to the EPA or the White House asking for the current standard to remain in place.

We recently asked the experts at NERA Economic Consulting to quantify the cost of this new standard set at 65 parts per billion. They found in fact that it would be the most expensive regulation ever: $140 billion annually in lost GDP, $1.7 trillion overall, the equivalent of 1.4 million jobs in jeopardy, and $830 in annual cost to the average household.

Now I am sure you will have questions about the study at the hearing, so let me try to answer some of them now. First off, NERA and EPA's assumptions in their studies are more or less identical. They both assume that the same final

regulations will be in place going forward. They both assign the same cost to the known controls. They both assume in the base line that a certain amount of power plants will be retired due to market conditions, and they both assume that a large percentage of the technologies and strategies needed to attain the stricter standard will come from what EPA calls unknown controls. The primary difference between the two studies really is the cost of those unknown controls. EPA assumed a single, flat cost for those controls, $15,000 per ton. It is an assumption that we know based on experience and logic just isn't true. As a society, as we invest in controls to reduce emissions and get closer and closer to zero, the cost per ton of those reductions will necessarily increase.

So what NERA did is they relied on evidence to drive a cost curve to estimate that steep incline as we start to get rid of the technologies that we know about. And if they can't figure out what those technologies are, then the cost to scrap, modify, or shut down certain equipment. Near the bottom of the cost curve is what we know the cost per ton for coal-fired power plants retiring. At the top then is the cost per ton for vehicle scrappage, sometimes referred to as cash for clunkers. My colleague at the GW University claims

that no one ever really thought of vehicle scrappage as a pollution control technology until we came along with our study. I am very flattered by that, but it is also dead wrong.

California has had a vehicle scrappage program in place since the 1990s. It is included in the SIP, their state implementation plan, for ozone. Texas also uses a vehicle scrappage program for its ozone compliance tool. It is called the Air Texas Drive a Clean Machine Program.

As Professor Glicksman notes, as a pollution compliance strategy, vehicle scrappage is highly inefficient. But that is kind of our point. We have been so successful in reducing ozone levels that not only is the low-hanging fruit gone, the high-hanging fruit is gone, too. We are playing in the margins now. All that is left are the controls that are not as cost-efficient, and if we can't develop new controls in time, we will have to deal with the severe consequences of ozone non-attainment that you are going to hear about today.

So this is not a sensible regulation. It is especially frustrating when you consider that the implementation of the current standard has just barely begun, that EPA's proposed standard is approaching background ozone levels in many areas, and that the dozens of other laws and regulations on

the books that limit NOx and VOCs will drive ozone levels down 25 percent more in just the next 3 years. This doesn't have to be a choice between the environment and the economy.

Two weeks ago the Energy and Commerce Committee worked together to unanimously approve a bill to modernize TSCA. It was a wonderful day. We ask that you work to find similar middle ground on ozone. Manufacturers cannot cope with the most expensive regulation in history, and we really hope that you will work together to help us find a solution to this problem. Thank you.

[The prepared statement of Mr. Eisenberg follows:]

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Mr. {Whitfield.} Thank you, Mr. Eisenberg. And our next witness--I want you all to know that I am working the clock. I am introducing the witnesses. The next witness is Ms. Erin Monroe Wesley who is Executive Vice President and Chief Operating Officer of the Baton Rouge Area Chamber. Thanks for being with us, and you are recognized for 5 minutes.

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^STATEMENT OF ERIN MONROE WESLEY

} Ms. {Wesley.} Thank you. Good morning. Good Morning Chairman Whitfield, Chairman Burgess, and Members of the Joint Subcommittees. Again, my name is Erin Monroe Wesley. I serve as the Executive Vice President and Chief Operating Officer of the Baton Rouge Area Chamber. On behalf of BRAC's 1,400 investors and the region's business community, we stand before you today to express our significant concern regarding the proposed NAAQS rule issued by the EPA on November 25, 2014.

The Baton Rouge Area Chamber adamantly opposes the proposed reductions in ambient air quality standards from the current level of 75 parts per billion. Our opposition is based on three main points: Number one, the proposed standards have already cost our region thousands of jobs and billions of dollars in capital investment. Two, the standards would drive 18 of the Nation's 20 top-performing metropolitan economies into non-attainment and damage U.S. competitiveness for business investment, especially foreign direct investment. And number three, the vast majority of U.S. counties will meet the EPA's proposed standards by 2025

with practices already in place.

BRAC believes in and stands for cleaner air and environmental stewardship. For roughly 10 years, BRAC has supported and hosted the Baton Rouge Clean Air Coalition. On April 4, 2014, thanks in large part to the Coalition's efforts, the Louisiana Department of Environmental Quality announced that the EPA determined that the Baton Rouge Area attained the 2008 8-hour ozone standard. The region has decreased ground-level ozone, improving air quality and human health for its 800,000 plus residents.

Our successes and progress environmentally make the negative effects of the proposed standards even more painful. In 2014, BRAC worked with 4 chemical manufacturers that were investigating major investments in the region, including 2 companies that executed purchase agreements on large industrial sites with the intent to develop. Since the EPA first proposed lowering the ozone NAAQS, all 4 of these companies indicated that the proposed new standards influenced their decisions to look elsewhere or to otherwise not proceed.

In other words, the proposed standards have cost the region at least 2,000 direct and indirect jobs and caused more than $7 billion in capital investment to be put on hold

or moved elsewhere. Let me be very clear: These projects were put on hold or lost at the mere prospect of lowering ozone air quality standards to the 65 to 70 parts per billion range. Should these proposed standards be adopted, the Baton Rouge Area will be thrust into non-attainment status. Economic development professionals have projected that under this scenario, the Baton Rouge Area will not even be approached for these types of projects, much less compete for them.

Baton Rouge would not be alone in suffering economically should the proposed standards be adopted. If the EPA were to lower the ozone standard to 65 parts per billion, all but 2 of the Nation's top 20 metropolitan area economies, as ranked by the Brookings Institution, would be relegated to non-attainment status. These proposed standards would stifle the growth and investments in U.S. manufacturing, exports, and development taking place in metropolitan areas that have been the most successful in helping the country get back its footing economically.

The proposed actions to lower the ozone NAAQS rule run counter to the U.S. Government's interest to grow the national economy, attract foreign direct investment, and increase U.S. exports.

Clean air is a priority for the Baton Rouge Area's business community. Economic development and environmental stewardship do not have to be mutually exclusive goals. This region's businesses are committed to both, as evidenced by the efforts put forth to gain attainment status. Policies that have a significant adverse effect on local economies, as the proposed NAAQS rule does, should be enacted sparingly, only when absolutely necessary. Unfortunately, the rule at hand spares nothing, and is unnecessary.

Despite the EPA's own assertion that a vast majority of the country will be in compliance with the regulations by 2025 under the current regulatory scheme, the Agency seeks to enact rules that will immediately bring the punitive status of non-attainment to areas around the country. We cannot stand by and allow our economy to be collateral damage.

It is therefore the strong recommendation of the Baton Rouge Area Chamber that the National Ambient Air Quality Standards for ozone rule not be reduced from 75 parts per billion. Thank you.

[The prepared statement of Ms. Wesley follows:]

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Mr. {Whitfield.} Thank you, Ms. Wesley. At this time I recognize the gentleman, Mr. Robert Glicksman, who is the Shapiro Professor of Environmental Law at George Washington University Law School. We appreciate your being with us this morning, and Mr. Glicksman, you are recognized for 5 minutes for your opening statement.

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^STATEMENT OF ROBERT L. GLICKSMAN

} Mr. {Glicksman.} Chairmen Burgess and Whitfield, Ranking Members Schakowsky and Rush and members of the subcommittees, I appreciate the opportunity to testify today on why strong standards to reduce ozone air pollution are both necessary to fulfill the Clean Air Act's congressionally-mandated public health goals and consistent with a strong economy in which manufacturers can prosper and thrive.

My written statement makes 4 key points. First, a strong national ozone pollution standard that fulfills the public health goals of the Clean Air Act will deliver significant health and environmental benefits.

Second, regulations such as EPA's pending ozone standard can and do provide important economic benefits for U.S. businesses, including those in the manufacturing sector.

Three, a frequently cited study purporting to find catastrophic economic effects from a strong ozone standard fails to provide a reliable accounting of the rule's potential impacts.

And finally, to the contrary, the available evidence

confirms that strong national standards for ozone pollution are not an impediment to economic growth.

I will start with the first point. EPA's National Ambient Air Quality Standards have provided enormous benefits, but the need for more protective standards is clear. Ozone pollution adversely affects people of all ages including pregnant women, children, healthy young adults, and the elderly. EPA's rules reduce the incidence of impaired lung function and other health problems for all these populations.

Ozone pollution control rules also strengthen the U.S. economy by preventing billions of dollars of damage to agricultural crops and forest products and through rubber textiles and paints. Controls and ozone precursor emissions also increase the productivity of America's current and future workforces by cutting the number of missed work and school days resulting from health problems linked to ozone exposure.

Despite the air quality improvements achieved under EPA's current ozone standards, more than 140 million Americans continue to live in areas with harmful levels of ozone pollution. In a recent study of the National Center for Atmospheric Research projected that warming temperatures

could cause the number of unhealthy ozone pollution days to increase 70 percent by the year 2050. As a result, the Clean Air Act requires EPA to adopt more protective air quality standards that would produce air quality that is safe to breathe. Specifically EPA must set the standards at levels sufficient to protect the public health with an adequate margin of safety as well as protect the public welfare which includes effects on property and economic values. The current standards do not meet that requirement and therefore need to be strengthened.

It is important to recognize that EPA's proposed standard is not the product of whimsy or executive overreach. EPA's proposals are a response to demands placed on it by the Clean Air Act itself. That law and the specific duties it imposes on the EPA was adopted in 1970 with overwhelming bipartisan support and was strengthened in 1990 through amendments supported and signed into law by President George H. W. Bush.

In the 45 years since the Act's adoption, EPA's critics have repeatedly argued that EPA must consider the cost of controlling pollution under the National Ambient Air Quality Standards. The courts have repeatedly and resoundingly rejected that claim, most notably, the unanimous Supreme

Court opinion written by Justice Scalia. The court ruled that the Clean Air Act prohibits EPA from considering cost when it adopts these standards.

Now, it is critically important not to misunderstand these rulings. They don't mean that compliance costs and economic impact are irrelevant to the statute's operation. Instead, the courts have recognized that the statute empowers the states to take costs into account in designing and implementing plans to achieve the national standards by adopting adequate control strategies that meet their own economic and social needs. The status therefore accommodates public health concerns and economic needs through a process that respects state sovereignty and discretion.

The economic benefits of air pollution controls are significant, even if they tend to be overlooked. They provide a productivity dividend by reducing work and school days lost to illness-related air pollution exposure. EPA estimates that its Clean Air Act regulations prevented 13 million lost work days in 2010 alone. These regulations also can create new markets and opportunities for entrepreneurs as federal and state energy efficiency regulations have done. Environmental regulation can spur businesses to revolutionize their production processes in ways that lead to greater

productivity and profitability as numerous examples under the statute and other laws have shown.

I will be happy to answer any questions the committee may have.

[The prepared statement of Mr. Glicksman follows:]

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Mr. {Whitfield.} Well, thank you very much, Mr. Glicksman. And at this time I would like to recognize Dr. Gregory Diette who is the Professor of Medicine at Johns Hopkins University School of Medicine, and he is testifying on behalf of the American Thoracic Society. Thanks for being with us today, and Dr. Diette, you are recognized for 5 minutes.

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^STATEMENT OF GREGORY B. DIETTE

} Dr. {Diette.} Thank you, Mr. Whitfield, and thank you to the other chairman and the ranking members and all the members at these important subcommittees. I really appreciate the opportunity to talk to you today. As you said, my name is Dr. Gregory Diette, and I practice at Johns Hopkins University in Baltimore, Maryland. I am a pulmonologist there which means I take care of sick people with lung diseases, especially people that are very sick with lung diseases. These are people that have trouble breathing.

You have my written testimony in front of you, and I just wanted to try to elaborate on a couple of points that I wanted to clarify. One is and the first thing is that ozone is bad for people with lung disease. That is not news. That is not news to anybody on these subcommittees, but it is an irritant that bothers the lungs. Multiple research studies in different parts of the country, different parts of the world, have shown that people with diseases like asthma, COPD, and other lung diseases, when they are exposed to ozone, they get sick.

What sick means is--sometimes it means you might need to

increase the amount of medicine you are taking. Sometimes it means you are going to go to your doctor's office. Sometimes it means staying in the hospital overnight, and sometimes it means dying from an attack from COPD or from asthma.

The second point that I want to make is that ozone pollution is bad for otherwise healthy people, too. That's really important. You know, we use different ways in order to try to irritate the lungs to prove if somebody has asthma. Ozone does that in normal, healthy people. It is scary.

Third, it doesn't matter if ozone is from the next city, the next county, or from a neighboring state. Ozone is ozone, and it bothers the lungs whether or not it started where you live or it started somewhere else.

The fourth point I want to make is about public health, and I think public health sometimes gets sort of lost. We talk about a lot of numbers, millions of people with this, hundreds of thousands with that. I think what is important about public health is it is actually a collection of stories from all over America about people who have illnesses and suffer from them sometimes. What it can mean, for example, is it can mean a mom that is in the emergency department with her kid hoping that he survives that asthma attack, and in the back of her mind wondering, is she going to be able to

take off another day from work. And that is an important point. She might not be able to go to work, to her job, because her son is sick.

The issue that she will face also is how she pays for the care that she gets there. You have to understand what an asthma attack is, too. It is terrifying. People say they can't get enough air. Some people say they can't breathe. Other people say it feels like there is an elephant on my chest. They think they are going to die. People feel panic. They can't stop coughing. Sometimes they can't walk, and their medications sometimes work and sometimes they don't.

I asked a patient of mine by email if she could help describe for these subcommittees what the role is of ozone in her particular life, and she is a 29-year-old woman who is fully employed, college-educated, and she has lung damage from being born prematurely and now has asthma. And she says things like I am very sensitive to air quality, specifically areas with large amounts of pollution on code red and code orange days. She talks about those days that she is unable to work, right? She is unable to work. She can't go outside to do her normal-life activities. These are her words. She said even stepping on the balcony of her condo can cause her to have a severe flare-up of her asthma. She can't do simple

errands, like going to the grocery store. She can't make it sometimes from the door to her car without difficulty. She is very dependent on her rescue inhaler on those particular days.

She said that she is very dependent on the forecasts that are available for when there is going to be high ozone days because she needs to remember to take her inhaler with her, and she said unfortunately--her words, unfortunately--sometimes she has to change plans with her friends and her family due to the air quality.

The final point I want to leave you with is that the science is strong and compelling. Since 2006 when the Bush Administration EPA looked at the ozone standard, the American Thoracic Society recommended a more protective standard of 60 parts per billion. We are confident of our recommendation then. We are more confident now. There are additional studies that have come out since that time period which have strengthened our understanding of the science.

The EPA is not basing their proposed protective ozone standard on 1 study. It is not 10 studies. It is literally hundreds of studies that have helped to inform this rule. It includes multiple scientific methods including animal studies, mechanistic studies, human population studies,

natural experiment studies, and meta-analyses. What these studies show is that the current ozone standard is not protective of public health and that the EPA must issue a more protective standard.

Thank you very much for inviting me here, and I appreciate any questions you might have.

[The prepared statement of Dr. Diette follows:]

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Mr. {Whitfield.} Well, thank you, Dr. Diette. And at this time I would like to recognize our next witness, Dr. Louis Anthony Cox who is the president of Cox Associates and the Chief Science Officer for NextHealth Technologies. Dr. Cox, you are recognized for 5 minutes.

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^STATEMENT OF LOUIS ANTHONY COX, JR.

} Mr. {Cox.} Chairman Burgess, Chairman Whitfield, and members of the subcommittees, thank you for inviting me to discuss the human health aspects of EPA's proposed ozone rule. I am testifying on my own behalf today, understanding that well-informed policy-making must consider the likely and foreseeable impacts of the proposed rule on human health, as well as on economic end points. I have lived in Denver since 1987, so I care a lot about air pollution personally. But today I want to focus on what science and data tell us about how changes in ozone affect public health.

I have provided the committee members with a detailed CV describing my academic, publishing, professional, and consulting affiliations and my service as a member of the National Academy of Engineering and as clinical professor of Vital Statistics and Informatics at the University of Colorado, School of Public Health.

In evaluating whether costly proposed regulations are in the public interest, we should ask first, how well will a regulation really work? That is, will it actually cause the desired benefits that motivate it which we have been hearing

about? Second, how sure can we be? For how sure we can be, EPA's Health Affects Risk Assessment Report for Ozone clearly warns that their estimation of health impacts uses inaccurate models with significant uncertainties that they have not been able to quantify. Unfortunately this leaves policymakers and the public uninformed about how likely it is that the proposed ozone rule will really cause the substantial public health benefits that EPA estimates and how likely it is to instead produce other outcomes, such as no public health benefits.

We can summarize EPA's uncertainty analysis very simply, by saying that no one can tell from their published risk assessment documents what the true effects of the proposed rule on public health would be. Fortunately, despite this important gap, it is quite easy to find out the correct answer. For decades the EPA and the Centers for Disease Control and Prevention have kept data on the ozone levels and public health, mortality, and morbidity rates at hundreds of locations across the United States. It is straightforward to examine what has happened to ozone and what has happened to health risks in hundreds of counties. It is also easy to apply objective, statistical methods for causal analysis to these data to determine how, if at all, ozone levels and

mortality and morbidity rates are causally related.

Such analyses revealed the following key points: First, as reported in hundreds of studies, there are positive, statistical associations between ozone levels and mortality and morbidity rates in many locations. Both tend to be higher in some places and at some times than others. For example, both ozone levels and cardiovascular mortality rates used to be higher decades ago than they are now.

EPA interprets such repeated findings of positive associations as evidence of causation, but in fact, they are only evidence for correlation. Dr. Diette says that ozone bothers the lungs, but they are not bothered less at lower concentrations.

Second, mortality and morbidity rates have fallen just the same where ozone levels have increased as where they have decreased. Both short-run and long-run studies that have rigorously examined changes in ozone levels and changes in public health risks pray possible causal relation between them have not found one. How ozone changes does not help to predict or explain how mortality rates will change. This means that the statistical association between them is coincidental, not causal.

These facts answer the question that EPA's Health Risk

Assessment for Ozone left unanswered. The human health benefits that EPA and others predict from the proposed ozone rule will not materialize. We know this because they have not materialized in the past. Reductions in ozone much larger than those now being proposed have already occurred without causing any detectible improvements in public health. To predict they will do so in the future is simply wishful thinking and bad statistics based mainly on using uncertain and inaccurate models and are confusing historical correlation with future causation.

Current ozone levels are already low enough so the further reductions should not be expected to cause improvements in public health.

EPA's conclusions about the causal impacts of ozone reductions on public health run against these empirical findings, but their conclusions are based on unreliable, subjective judgments of selected experts on models that they conceded are inaccurate and have large but unquantified uncertainties and unmistakenly treating correlation as causality. None of these methods produces trustworthy conclusions.

In summary, we know from extensive real-world experience that EPA's predicted health benefits from the proposed rule

are only artifacts of inaccurate modeling assumptions. Assuming that smaller future reductions in ozone will accomplish benefits the previous larger reductions have not is unwarranted. There is no need to repeat the costly effort to obtain better public health by further reducing ozone levels. We already know from abundant historical experience that doing so does not work.

Thank you for your attention.

[The prepared statement of Mr. Cox follows:]

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Mr. {Whitfield.} Well, thank you, Dr. Cox. And our next witness is Ms. Stacey-Ann Taylor who is the Director for Product Stewardship at Henry Company, and thanks for being with us, Ms. Taylor. And you are recognized for 5 minutes.

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^STATEMENT OF STACEY-ANN TAYLOR

} Ms. {Taylor.} Good morning. Thank you Chairman Whitfield, Chairman Burgess, Ranking Members Rush and Schakowsky, and members of the subcommittees for the invitation to testify regarding the EPA's proposed ozone rule and the potential impacts on manufacturing.

My name is Stacey-Ann Taylor, and I am Director of Product Stewardship at Henry Company. Henry Company is a privately owned building products manufacturer based in El Segundo, California, right next to LAX airport. Henry Company has manufacturing facilities in 6 states and employs about 450 people. We manufacture roof coatings, roofing adhesives and sealants, driveway sealers, air and vapor barriers, and a number of other residential and commercial building products.

Henry Company is a very active member of the Roof Coatings Manufacturers Association, RCMA, and I am also pleased to represent RCMA with my testimony as well. RCMA is the national trade association representing manufacturers of asphaltic and solar reflective coatings and their raw material suppliers.

Typically, legislative and regulatory discussions on the impact of lowering the EPA's NAAQS for ozone focus on a few key industries, especially oil and gas production, utilities, and motor vehicle manufacturing. However, these discussions rarely include an explanation of how lowering the NAAQS for ozone will have an impact on everyday consumer and commercial products.

In November 2014, EPA issued a proposed rule to lower the NAAQS for ozone from the current 75 parts per billion to 70 parts per billion or possibly lower. When the EPA lowers the NAAQS for ozone, this requires the states to update their State Implementation Plans to try meet the EPA's new regulatory requirements. These State Implementation Plans have to be approved by EPA. Understandably, the states will have to include a variety of air quality management methods in their State Implementation Plans to meet the lower standard. One of these air quality management methods is the regulation of Volatile Organic Compounds, VOCs, in consumer and commercial products.

VOCs are gases emitted from certain chemicals found in consumer and commercial products. VOCs are also emitted from natural sources, such as plants and trees. VOCs react with nitrogen oxides and sunlight to form ground-level ozone.

As we all know, breathing in ground-level ozone can result in adverse health effects, especially for sensitive populations.

Therefore, it is appropriate for EPA and the states to regulate VOCs. However, VOC regulation of consumer and commercial products in certain air quality management districts around the country are approaching the point of diminishing returns in terms of actually contributing significantly to air quality improvement.

EPA and the states should carefully consider whether requiring manufacturers to achieve further drastic reductions in VOC content in consumer and commercial products is technically feasible at this time and also worth the time and resources spent by manufacturers to comply for a low return on investment in terms of improved air quality.

In addition, it should be noted that if manufacturers can't find reasonably priced technology to achieve these further VOC reductions, there will certainly be fewer consumer and commercial products available in the marketplace for purchase. Manufacturers will have to restrict non-compliant products from sale, and if replacement products can't be manufactured and sold at prices the market will bear, then the result will be fewer products available for

people to purchase.

In closing, I hope that I have provided a clear explanation of how EPA's lowering of the NAAQS for ozone will eventually result in further regulation of VOCs in consumer and commercial products that may not significantly help air quality management districts achieve attainment status and may actually result in less product choice in the marketplace. As manufacturers of consumer and commercial building products, Henry Company and its representative trade association RCMA believe that EPA should not be allowed to further lower the NAAQS for ozone until the vast majority of the air quality management districts across the country have reached attainment status under the current level of 75 parts per billion.

The primary focus of the EPA should be to provide additional support to those air quality management districts currently in non-attainment status to help them reach attainment status under the current level, before making the goal of reaching attainment status even more difficult for the states to obtain.

Thank you very much for your time.

[The prepared statement of Ms. Taylor follows:]

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Mr. {Whitfield.} Thank you, Ms. Taylor, and our next witness is Mr. Michael Freeman who is the Division President of The Americas for WD-40 Company. Thanks for being with us, and you are recognized for 5 minutes.

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^STATEMENT OF MICHAEL FREEMAN

} Mr. {Freeman.} Thank you, Mr. Chairman, ranking members, and members of the subcommittees. It is an honor and a privilege to be sharing the views of WD-40 Company and its partner trade associations, the National Aerosol Association, or the NAA, and the Consumer Specialty Products Association, CSPA, with you today.

I join you as the President of the Americas for the WD-40 Company. We have our global headquarters in San Diego, California. Our products are found under the sink, in the garage and in the toolboxes of loyal fans in over 176 countries around the world. In the United States, WD-40 is in over 80 percent of U.S.A. households. We are also in over 80 percent of U.S. businesses. That makes us appear a lot larger than we really are. My dentist was horrified the other day when I told him in the USA more people use WD-40 every day than use dental floss. He didn't like that, but it is a true story and really, really testifies to our brand power and uses for all of our brands: WD-40, Lava, 3-IN-ONE, Spot Shot, and the other brands. Which brings me to the national ozone standard.

We know from experience that lowering the national ozone standard has resulted in lower VOC state regulations that drive us to reformulate many of our products, and we are not alone. This happens with other consumer products also.

What are consumer products? Well, if you go look underneath your kitchen sink, your bathroom sink, you go to your pantry, your laundry room, you can go out to the garage. All those products there that make your life better, that is us. Now, it makes us a bigger industry, and that makes us also a target for VOC emissions, even though we are one of the smallest sources of VOC emissions nationally.

So in our opinion, reducing the standard right now can have a serious impact on consumer products. Household products like WD-40 could become much less effective and/or much more expensive for a consumer to buy, and that has been our experience with past regulations.

Reducing the standard now could also create a confusing patchwork of compliance regulations across and within states. And that has been our experience now, too.

The current regulation is not being implemented anywhere close to the same way across all 50 states, and even in the great State of California, which has over 35 air districts, we now have air districts doing something different than the

State of California. So you can imagine how complex and confusing this is for everybody involved.

Reducing the standard now would also add significant costs that can adversely impact the entire aerosol industry and others because it is not just your R&D product development cost, it is also the marketing cost. You are constantly changing labels where you can put label claims on for your product, changing labels out due to the evolving nature of the regulations. It also moves into your supply chain.

In California there are certain plastic bottles that we like to use of a certain size, and if we use them, we have to make sure they have 25 percent recycled content. So you have a compounding of different regulations, and unfortunately, I don't have the impression that all the regulators talk to each other. And so the combined impact on business is rather amazing.

All these costs can become embedding into our business going forward. Sometimes we can pass them on, sometimes we can't. But the tip of the spear is the R&D, and we know from experience that it takes years of diligent research and millions of dollars for the WD-40 company to develop products that meet the statutory regulations.

Let me give you an example. WD-40 company has lowered the VOC content of its flagship brand, WD-40, from 65 percent VOC to 50 percent VOC to the current 25 percent VOC standard in California in the last 15 years. By the end of 2018, California presently requires that we get the VOC content down to 10 percent. Now, we have been working on this for years, and we have not yet discovered the way to do it that is technologically or commercially feasible. But we will keep working on it. We still have time. And all this is being done underneath the current regulation. What do you think happens if you dogpile another regulation on top of that as far as confusion and complexity?

The NAA, the CSPA, the WD-40 Company, and many other consumer product companies have a long and successful history of working with the California Air Resource Board, the Ozone Transport Commission, the EPA, and several individual air districts.

So our recommendations are essentially this. First off, can we celebrate the success that we have had? We have cleaned a lot of air over the last several years working together. I grew up in smoggy Southern California in the '50s, '60s, and '70s, and at the end of a lot of days I couldn't do that without having a smoker's hack. And I

wasn't smoking. I was just doing water polo and swimming. So we would like to celebrate. We would like to make sure that many of the regulations that have been developed have not yet been fully implemented with known results. And we just ask, can we finish one job before we start with another? I would rather go into a regulation with actual results and facts and reality than modeling.

Our final recommendation is for Congress to keep the current standard unchanged at 75 parts per billion until states have been able to fully implement that standard and learn from those regulations and results so that we can all move forward in the fact-based, more aligned and successful way to achieve our common clean air goals. Thank you.

[The prepared statement of Mr. Freeman follows:]

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Mr. {Whitfield.} Well, thank you, Mr. Freeman, and thank all of you for your testimony and for taking time to give us your insights and thoughts on this important topic. At this time I recognize myself for 5 minutes of questions.

Mr. Freeman, you touched on trying to come in compliance with these regulations, and there has been a litany of regulations, I mean, more so in this administration than at any other administration in recent memory. And you mentioned this also, Mr. Eisenberg, about the fact that unknown technology or controls--to me, unknown controls means that it is simply not there yet to meet the standard. Is that what your understanding is, Mr. Freeman?

Mr. {Freeman.} Yes.

Mr. {Whitfield.} Now, some people would say and many people make the argument that, well, we are so innovative in America that we come up with new solutions, and I think that is true. And you have indicated yourself that you have gone from 65 down to 25 percent of VOC, and California by 2018 wants you down to 10. So more than likely you will be able to do that I assume, right?

Mr. {Freeman.} Right now we don't really know. You know, life is full of ambiguity, whether it is personal life

or business. But because we work together well with the California Air Resource Board, that 2018 gig was actually supposed to be in effect at the end of this year, and we were able to go back to them and say do you know we have been working hard on this? And they actually delayed it for 3 years. So we have 3 more years. But that is an example of people working together.

Mr. {Whitfield.} Well, you know, another frustrating thing about this is EPA came up with this standard in 2008 and only a few months ago did they provide the implementing guidelines to the states. And so now the states are just getting this, and they are already moving onto a new standard.

Now, we heard a lot of comments about this is good for the economy, and there is no question that since the first Clean Air Act that was adopted in '70 and the major changes in '90, the economy has grown. But I don't think we can just throw under the rug this report that came out in April from the Global Market Institute of Goldman Sachs that point-blank says, in small businesses 500 employees and less, for the first time ever after an economic crisis, as we try to come out of there, the number of small businesses has decreased by over 600,000, 600,000 less.

So if you are a small businessman with this cumulative impact--and they say that the cause is regulations, banking regulations because capital is not available and costs are higher, and then other regulations, like healthcare and so forth, that cumulative impact has been responsible for 6 million fewer jobs.

And so I think it is I one thing to say, well, this is good for the economy, but for the first time ever, that is not proving to be the case. And so a lot of the arguments being made today, we all recognize the great success of the Clean Air Act. But at some point, you do get to diminishing returns, particularly when ozone is affected by what is going on in China, India, elsewhere. And I think you folks from California--I guess you are from California, Ms. Taylor. Los Angeles has never been in compliance. San Joaquin Valley has never been in compliance, and there are other parts of the country that have never been in compliance, and they are not going to be in compliance now, either.

So let me just ask you, Mr. Eisenberg, when Ms. McCabe comes here, every time she says our rules promote economic growth. Do you agree with that?

Mr. {Eisenberg.} Well, in the case of ozone, we actually did address that in the study. The 1.4 million jobs

number and the $140 billion that the study has concluded, that is actually net jobs. So they took into account, you know, the comment regulations create jobs. They create, you know, people and so on, pollution control technologies and things like that. The study actually has that in it, and we still come out as negative as it does at 1.4 million jobs lost.

So, you know, yes, they do, but they are so far outweighed with this regulation from all of the jobs that would be lost overall.

Mr. {Whitfield.} And you know, this whole issue raises another question. The Clean Air Act has been sort of sacrosanct, and rightfully so, because healthcare is vitally important, and we have made great strides because of what is going on with our physicians and our healthcare delivery system.

But the truth of the matter is EPA cannot look at costs when setting the standard. States can look at costs when implementing under the State Implementation Plans, but maybe we should consider cost particularly when you have 6 million fewer jobs in small businesses. Isn't that a relevant factor? What is the impact on the healthcare of those families who may not have health insurance? Is that a valid

point to consider?

Mr. {Eisenberg.} We would certainly agree with that. We would add that a couple of weeks ago the GAO put out a report that EPA actually does have a duty to at least look at the cost through CASAC, its panel, and CASAC has never done it because EPA has never asked them to.

So while it is legally correct that they are not to consider cost while considering the actual number, they should be informed and CASAC should be informed, and they didn't do it this time. We think they should go back and do it again.

Mr. {Whitfield.} My time is expired. At this time, I recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. {Rush.} I want to thank you, Mr. Chairman. Mr. Glicksman, currently the Clean Air Act requires the EPA to issue standards based solely on consideration of the public health, and these rules must ``accurately reflect the latest scientific technology.'' What would be the impact on public health if, as the chairman has suggested, that the majority party would rewrite the Clean Air Act to make cost to industry rather than the benefits of public health the primary driver of EPA rules? And Dr. Diette, you can chime

in on that. I want to ask Mr. Glicksman first. What would be the impact, in your opinion?

Mr. {Glicksman.} Yes. The statute has been in effect for 45 years, and throughout that time cost has been a factor that has been irrelevant to the establishment of the national standards, as I indicated in my statement. Cost is highly relevant in the implementation phase, and it appears to me at least in my study of the statute that that has provided a good balance of attempts to achieve public health protection with cognizance of the economic impact of regulation.

I think if EPA were required to consider cost at the standard promulgation stage, you would inevitably find weaker protection of the public health because cost considerations would, I think in many cases, wind up trumping public health considerations.

Mr. {Rush.} Dr. Diette?

Dr. {Diette.} Thank you. I think it is a great point and a great question to ask. I think, you know, one of the issues here is to consider, since there is so much focus on employment and jobs and so forth which I think is highly appropriate, that we need a well-educated healthy workforce in order to go to work, right? And so one of the benefits, and it doesn't stop at 70 or 65 parts per billion, is more

work days for people who actually breathe in ozone and more children going to school, right? And so there is evidence that children who miss many school days because of asthma score worse on standardized tests.

So I just want to point out if the entire focus, which it is not, was on the workforce, there is a really good argument to be made that you need to keep your workforce healthy and well-educated, and you are fighting against that when people are in the emergency department or in the hospital or otherwise not able to go to work or school.

Mr. {Rush.} Thank you. Professor Glicksman, for the past 2 years we have constantly been debating the impact that regulations have on employment, and we have continuously heard from industry groups that any and all regulation will stifle economic growth and lead to job losses. However, in your testimony, you cite an ETI study that reported that few jobs are lost because of regulation. In fact, the EPA study you cited notes that extreme weather events have caused more extended mass layoffs than regulations. Additionally, the report states that the number of workers who lost their jobs because of government regulation ``pales in comparison to any accounting of the jobs lost in this period due to regulatory failures that contributed to the economy's financial

crisis.''

Does federal regulation always lead to economic decline and job loss or is it possible to both regulate our air and water and also grow our economy and provide jobs?

Mr. {Glicksman.} Environmental regulation does not inevitably lead to job losses, and it is indeed possible to accommodate both public health and economic growth concerns.

There have been many examples of situations in which the regulate community has predicted massive job losses and other adverse economic effects as a result of proposed environmental regulations. And rarely if ever have those predictions come true.

One good example is the adoption in 1990 of the Clean Air Act provisions that phased out the use of ozone-depleting chemicals. At the time that the phase-out was first proposed, the manufacturers of chlorofluorocarbons predicted that there were no available substitutes, there could not be available substitutes in the foreseeable future, and that even if available substitutes became feasible, they would cost many times the cost of the products being replaced. Well, none of those predictions panned out. It turned out that when the handwriting on the wall became clear to companies like DuPont, they engaged in an intense effort to

develop new technologies that would allow them to manufacture products that serve the same functions as CFC-containing products did, and not only were they able to make that shift much quicker than the statute required, they did so at a much lower cost than had been predicted, even by EPA. And finally, companies like DuPont found themselves as market leaders. They had developed these substitutes far earlier than any of the competing companies in countries abroad. They were also subject to Montreal Protocol phase-out.

So the U.S. industry had a competitive advantage over foreign producers because of their response to the phase-out adopted in 1990.

Mr. {Rush.} Thank you.

Mr. {Whitfield.} The gentleman's time has expired. At this time I will recognize the gentleman from Texas, Dr. Burgess, for 5 minutes.

Mr. {Burgess.} And thank you, Mr. Chairman. Ms. Wesley, let me ask you something. Mr. Freeman actually touched on it, but I rather suspect the Greater Baton Rouge Area is very similar to the area that I represent just north of the DFW airport. And a recent report showed in our area the 8-hour ozone levels have improved 21 percent in the last 15 years during which time our population has increased by 29

percent. I think that speaks to some success, in our area, I suspect your area as well. And in controlling this issue at--had nothing been done 15 years ago, had no activity been undertaken to try to improve things with a 29 percent increase in population, I don't know. I suspect we would be in deep trouble in the North Texas area, and yet, we are not.

Most of the ozone in our area actually does come from mobile sources, and I will just tell you that mobile sources have not diminished. Drive on our roads in North Texas, and that becomes painfully obvious. Mobile sources continue to be one of the main drivers, no pun intended, of air quality issues. But I wonder if you would speak to that in the Baton Rouge Area?

Ms. {Wesley.} Certainly. We have done a lot of work over the last several years with the Baton Rouge Clean Air Coalition, working with other partners to really get ourselves up to the 75 parts-per-billion standard. I am looking a little bit at the Brookings Institute study and talking specifically about Texas. If you look at that study in terms of the top-performing economies, Austin, Houston, San Antonio, Dallas, and others, they are similarly faced with this ozone attainment issue.

And so for us, it is about looking at our partners,

learning how we can do better in terms of reaching that standard and not shooting that standard down the road. Right now we are at 75 parts per billion. We know that the EPA is shifting that standard, you know, on its own will. And so why, one, are we shifting the standard when we are still trying to get there, not only for the Baton Rouge area but certainly areas across our state? And so we are working toward that standard. We are working with partners across states who work toward that standard. But in the meantime, we are certainly opposed to what is being proposed right now by the EPA because of the costs associated with it.

Mr. {Burgess.} Thank you. Dr. Diette and Dr. Cox, I want to ask each of you a question, and it is probably not fair. And as a consequence, I am prepared to also offer the question in writing and would look forward to your responses on this.

But Dr. Diette, you say in your testimony, in sum, there is accumulating evidence that ozone pollution at levels permitted by the current standard is damaging to human lungs and contributes to disease. And then Dr. Cox, in your statements, you say the EPA's conclusions rely on unreliably subjective judgments of selected experts on models that they concede are inaccurate and have large but unquantified

uncertainties and unmistakenly treating association correlation as causality.

So we seem to have a scientific standoff, if you will, as to these two competing hypotheses. And let me let each of you just take a few minutes and talk about that. But I actually would ask you to respond to that discrepancy in written form as well. Dr. Diette, you are first.

Dr. {Diette.} Sure. Thank you for the question. I think it is a great one, right? I would first of all like to point out that just because there are 2 of us here representing different points of view, it doesn't mean that there is a 50/50 balance. I think the scientific community is strongly behind the evidence being strongly supportive of lowering the standard. So I don't think it is a 50/50 issue.

What I would say is that the issue about associations I think can be overblown. There are association studies, but when you look at how people put together evidence to decide that there is causality, you can go back to Sir Bradford Hill. There are many criteria that fit together for assigning causality. Part of it includes the strength of association or not, but other things such as experimentation which has been available here--

Mr. {Burgess.} Let me stop you there to give Dr. Cox a

chance to respond.

Dr. {Diette.} Thank you.

Mr. {Cox.} I think we are on substantially the same page which is that many people use many criteria to make decisions about causality. But there are better, more objective methods that don't require subjective decisions. They actually get at causality from the data. Those methods unambiguously show that there is no causal relation detected between changes in ozone in changes in public health. Subjective decisions do overwhelmingly support the converse proposition.

Mr. {Burgess.} Again, I would actually look forward to each of you expounding upon that a little bit in written form, and I will submit the question in writing. But Mr. Chairman, I learned something this morning from Dr. Diette. I had no earthly idea that ozone was used as a provocative test for asthma. It seems a little dicey to me as an asthma patient and as a physician.

Dr. {Diette.} I either misspoke or you misheard. I am not sure which, but I didn't--my point was we use other agents as a provocative test, not ozone. But what is so powerful a message to me is where we have to try to provoke the airways in an asthmatic with other chemicals, ozone does

it in a normal person. So you don't even have to be asthmatic to see an asthma-like response in a normal person. That is powerful stuff.

Mr. {Burgess.} If I can interrupt you there just to briefly interject that I Googled that, and indeed, some people have used ozone as a provocative test for asthma. But it is actually in the parts-per-million range, not the parts-per-billion range. So there is a significant quantitative difference. Mr. Chairman, thank you. I will yield back.

Mr. {Whitfield.} The gentleman yields back. AT this time I would like to recognize the gentlelady from Illinois, Ms. Schakowsky for 5 minutes.

Ms. {Schakowsky.} So this discussion about whether ozone is involved at all in public health is interesting. I am just wondering if either one of you want to go further in talking about why this regulation is so important and the costs of health, et cetera.

Dr. {Diette.} Sure. It is a great question, right? So why is it important in order to think about a lower threshold, right? And a lower threshold is meant to protect human health. And the issue is that this is a potent, oxidizing agent, right? There is no question about it. This isn't something that is in debate, right? We know that it

bothers the airways of people, whether or not they have a lung disease. But when you have a lung disease, you are especially bothered by it. So what you are trying to prevent is the catastrophic chain of events which leads to somebody being in the emergency department or in the hospital, not able to work, not able to go to school, those sorts of things, and in the worst case, dying.

The evidence base is expanded so that we have evidence beyond just respiratory diseases, and there is emerging evidence about whether there are neurologic conditions that may be attributable to ozone exposure. There is also other evidence, too, that goes beyond just short-term effects but looking at long-term effects, and that is starting to emerge as well.

So there is a lot of reasons to worry about it from a human health standpoint. If you are a human, you should care about it.

Ms. {Schakowsky.} Thank you. I wanted to follow up on the track that my colleague, Mr. Rush, was going down in terms of cost because it seems that in general, those who focus on costs are not talking about the costs from exposure to unsafe air, they are talking about the costs to polluters of actually cleaning up the air.

So I would like to ask our witnesses about the real costs associated with this rule, the costs of health impacts associated with unsafe air that affect the lives of millions of Americans.

So Dr. Diette, during the current 75 parts per billion ozone standard, have we seen those adverse effects on public health?

Dr. {Diette.} Yes, that is one of the points I think, right? I mean, at least in my written testimony especially I was trying to highlight the fact that since 2008 when the standard was considered to be changed then that the studies that have been done since then are done in an era when the 75 parts-per-billion standard exists.

So we continue to see adverse effects in the current era, even after the implementation of the 75 parts per billion. And the range goes down quite low. So 60 is comfortably within the range of where we see adverse health effects.

Ms. {Schakowsky.} So you are saying that 60 even is--

Dr. {Diette.} Sixty parts per billion, yeah.

Ms. {Schakowsky.} Uh-huh. Dr. Glicksman, would you like to add to that?

Mr. {Glicksman.} I just want to add to--actually

respond to the last 2 questions, in particular why it is important to adopt this standard. The Clean Air Act is a precautionary statute, as the courts have interpreted it. It is a preventive statute. In other words, the statute demands that EPA err on the side of over-protection of the public health. Congress was aware when it adopted the statute that there inevitably will always be scientific uncertainty about the causes and effects of public health consequences, and it mandated that EPA resolve doubts in favor of protection. And I will give you a good example of why it did that.

In 1978, EPA adopted National Ambient Air Quality Standards for lead. Over the years, it has amended that standard, and science now tells us that the standard that EPA thought was safe in 1978 was 10 times too high. Many think that even the current standard is not sufficiently protective.

So history shows us that over time science is able to detect adverse effects in public health, that it was not able to detect previously and that the statute mandates EPAs overprotection in order to mitigate that tendency.

Ms. {Schakowsky.} Going back to the issue of cost for just the minute that I have, you have already talked about the lost school days, et cetera, but I am wondering--and if

you have already answered this, I really apologize for having been gone. There are multiple hearings going on at the same time.

How many emergency room visits, if we have any calculation on that, are expected to be avoided with the strengthened ozone standard? Does anybody have that kind of data?

Dr. {Diette.} Yeah. Thank you. I mean, there are different estimates of it. I think that one of the papers that I have sort of thought was very valuable was there is one by Jesse Berman, which is in Environmental Health Perspectives, and it talks about what the estimates would be if we achieved the current 75 parts per billion standard and then also what would happen at lower thresholds including 70 and 60 and so forth. And so when you mentioned school, for example, at 70 parts per billion, the estimate is approximately 2 million school days saved. If it is at 60 parts per billion, it would be closer to 4 million as well.

And so there is an incremental advantage at each one of those thresholds for the types of things that you are talking about.

Ms. {Schakowsky.} Thank you and I yield back.

Mr. {Whitfield.} The gentlelady yields back. At this

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

Mr. {Olson.} I thank the chair. Welcome to all seven witnesses. My first question is for you, Ms. Wesley. Last week EPA's ozone guru, Ms. McCabe, told me that many kinds will meet this rule by 2025. In essence she says our concerns are much ado about nothing. EPA has made some big assumptions to get America to that point in a decade.

For example, they say that technology that hasn't been identified will show up and make meeting these rules affordable. They also say that their 111(d) carbon rule will come off without a hitch and cut some pollution, too.

People back home have their doubts. I share them. But let's imagine they are right for a moment. Even if some counties can't comply in a decade, won't there be dramatic changes and negative impacts in every sector of the American economy from day one?

Ms. {Wesley.} Well, I think the biggest concern on behalf of the Baton Rouge Area Chamber and other economic development organizations across the state is if you change that standard today, we are then placed into non-attainment status. And so what does that mean, as we have an economic development toolkit. We look at rules and regulations and

laws, and we are trying to attract jobs and companies to Baton Rouge and to the State of Louisiana.

And so if we are placed in non-attainment status, that would be detrimental harm done not only to BRAC but other areas across our State. So even though looking toward 2015 that may be one solution, the biggest concern for us is right now and what that impact means if that standard is changed today.

Mr. {Olson.} Yes, ma'am. Mr. Eisenberg, I was about to shoot you, my friend. Will impacts happen automatically, day one, if this new rule goes into effect?

Mr. {Eisenberg.} They absolutely will. If this thing goes live on October 1 and October 1 you have to get a new-- if you are in the middle of a permitting process for your facility and you are not at the very, very, very, very, very end, then yeah, you have got to comply with the new standard. And remember what our poll said, over half of our members believe that it is very unlikely that they are going move forward with a project if they get stuck in non-attainment.

Mr. {Olson.} Another question, Mr. Eisenberg. As we proved at last week's hearing with Ms. McCabe, we can never fully eliminate ozone in America. God gave us natural ozone. Half or more of the ozone in America is beyond our control.

That means that at a certain point we can't go lower. This is why so much of this compliance technology EPA expects to make this rule work is unknown. And yet EPA can't even consider whether these rules are achievable.

My question is, do you think this is sound law, that EPA doesn't even consider whether its rules are achievable?

Mr. {Eisenberg.} We absolutely do not. It is actually written in our policy statements that our members put in place every 4 years. We believe EPA should be considering costs in this process and especially feasibility given that that is such a big challenge here. It is a big reason why we support your bill because it would actually inject cost and feasibility into this decision-making process.

Mr. {Olson.} A balance between health and actual costs. It is bipartisan, bicameral, myself, Mr. Latta, Mr. Green on this side of the Hill, and Mr. Thune and Mr. Manchin on the other side of the Hill support this bill. So thank you for the little plug there, my friend.

My next question is for Mr. Freeman and WD-40 and Ms. Taylor from the Henry Company. Driven by the Port of Houston, my district is in the middle of a manufacturing petrochemical boom. Many people at home are worried about what this rule would do, whether it can meet their jobs along

the Gulf Coast. But it seems clear to me that the impact will hit average consumers even far away from the Port of Houston. Mr. Freeman, WD-40 is a staple of American life. I have it in my garage, my Jeep parked down in the garage here. I have it--I am going to have my daughter take it to school, college next year. My question is, is it fair to say that these products that every American family has to make their home a home, how would that be impacted by these new rules? Will my grandkids have WD-40 like I have had, like I want my kid to have? What do you think?

Mr. {Freeman.} Well, I would say based on our experience already with the existing regulations and the state regulations that come out of that, that we have had to reformulate WD-40. Now, we have kept the secret juice, the concentrate, the same, but the solvents that we have to mix into it which do affect the formula and also could affect performance and also can affect cost, with this 2018 standard right now, my honest answer would be to you I don't know what WD-40 your grandkids would have because we have to clear that hurdle first.

And so we are dealing with that ambiguity and trying to get there with a lot of great hard work, and I think we are not alone in that. I think a lot of consumer product

companies are concerned that maybe we are at that point in diminishing return at least for consumer product goods which is one of the things we want to look at. And then the other part of it is that's why--we are still working underneath the current standard and trying to make sense out of that.

Mr. {Olson.} Let's not move the goal posts before you achieve those current standards. I yield back.

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

Mr. {Pallone.} Thank you, Mr. Chairman. During our hearing last week we heard some of my colleagues argue that EPA's proposed ozone standard will hurt the economy and that Americans have to choose between clean air and economic growth. But history tells us that reducing 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. In fact, over the past 45 years, we have been able to cut air pollution by 70 percent while our GDP has tripled.

So I am going to ask Mr. Glicksman some questions. What does the history of the Clean Air Act tell us about the

relationship between environmental health and safety regulations and a strong economy?

Mr. {Glicksman.} I think the history tells us it is possible to achieve environmental protection goals without sacrificing economic growth and productivity and that the major statutes, like the Clean Air Act, the Clean Water Act, Resource Conservation Recovery Act demonstrate consistently that American businesses are innovative enough and creative enough to figure out ways to comply in a cost-effective manner that achieve the public health goals of those statutes without resulting in adverse effects on economic growth.

Mr. {Pallone.} But Mr. Glicksman, yet almost every time the EPA proposes a significant new requirement, we hear a litany of arguments for why it can't be done. These arguments rely on exaggerated claims about implementation cost, job losses, minimal health benefits. But we have heard all of these doomsday claims before, and throughout the history of the Clean Air Act, industry has made claims that cleaning up air pollution would impose huge costs and harm our economy. Over and over again these claims have turned out to be simply wrong.

One of the exaggerated claims being circulated about the new ozone rule is that estimating the costs would be $140

billion annually, making it the most expensive rule-making in history. However, as we heard last week, EPA's cost estimate approved by OMB was much lower. So again, my question. EPA estimates that implementation would cost approximately $3.9 billion for a 70 parts-per-million standard and $15 billion for a 75 parts-per-million standard. Those numbers are a far cry from the 140 billion. So based on your experience with the environmental regulations, does the $140 billion price tag seem reasonable to you?

Mr. {Glicksman.} I am skeptical of the $140 billion price tag. There was a similar apocalyptic prediction made when Congress was considering adopting the acid rain control provisions of the 1990 amendments. National Association of Manufacturers at that time predicted serious and lasting damage to the economy as a result of the acid rain provisions that would make the United States a second-class industrial power by the year 2000. Obviously that hasn't happened. What instead happened was that the cost per ton of controlling SO2 was about a tenth of the amount that the industry predicted at the time those controls were being considered.

Mr. {Pallone.} So what is going on here? How have the opponents of the ozone rule landed on such a large estimate?

You venture a guess?

Mr. {Glicksman.} I am not an economist. I can't parse the numbers in any knowledgeable way, but it is clear in the interest of industry to over-predict cost so that it will wind up with less protective regulations that are less costly to comply with.

Mr. {Pallone.} Well, I thank you. I mean, no matter how high the cost estimate may be, in my opinion there is no reason to oppose the new ozone rule.

I might have time for one more question. Dr. Diette, the Clean Air Act requires the ozone standard to be based solely on consideration of public health establishing the level of pollution that is safe to breathe. Why is it so important to separate considerations of cost from setting the standard?

Dr. {Diette.} Well, there are many reasons. I mean, I didn't write the law, right? But I think it has worked out pretty well since 1970 that it has provided us with very clean air compared to some of the countries that I have visited around the world which have horrible air quality. And I think the reason to do that is because we need--because the public health is good for people, right? People have a right to breathe clean air. They have a right to not become

sick by the air that they breathe, and I think that we have a more productive and a more functional population when people are not sick and they are not running to the emergency department. So I think that is the reason to do it.

The other is is that, you know, there is a cost-shifting thing here, right? I haven't heard a lot of talk about the people who inhaled the ozone and missed work. I have only heard about the people that produced the ozone and could theoretically miss work. So there is an imbalance there in terms of the thinking I think.

Mr. {Pallone.} I appreciate that. I will just say again that, you know, since the beginning of the Clean Air Act, polluters have cried wolf every time EPA has passed a new rule to protect public health, and the truth is we can have a strong economy while cutting pollution and cleaning the air. Thank you, Mr. Chairman.

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

Mr. {Lance.} Thank you very much, Mr. Chairman. I certainly understand the position of all of the distinguished members of the panel, and of course, from my perspective, this is part of the larger debate on the state of the American economy, the better health of the Nation. It could

even tangentially affect the debate we are having in Congress at the moment regarding trade.

To Professor Glicksman, does the Clean Air Act require the establishment of the Clean Air Science Advisory Committee?

Mr. {Glicksman.} The statute created the Clean Air Act Scientific Advisory Committee, and it mandates that EPA consult with the committee prior to adoption or revision of national standards.

Mr. {Lance.} And that is a committee whose members are appointed by the EPA or--

Mr. {Glicksman.} Yes.

Mr. {Lance.} --by Congress or both?

Mr. {Glicksman.} EPA.

Mr. {Lance.} By EPA? In your written testimony you state that, ``Scientists have known for a long time that the current national standard for ozone of 75 parts per billion set in 2008 is far too weak.'' And then I believe you go onto recommend the 60 parts per billion. Is that accurate, Professor? And then a little less than a year ago, in November, the EPA announced it was proposing to revise the standard to within 65 to 70 parts per billion. Am I reading that testimony accurately?

Mr. {Glicksman.} Yes, that is correct.

Mr. {Lance.} And you believe that that revision is ``much weaker and appears to be inconsistent with the clear statutory language adopted by Congress and interpreted by the Supreme Court decision.''

So from your perspective, would 65 to 70 be illegal?

Mr. {Glicksman.} I think it would be an improvement over 75, but I don't think--

Mr. {Lance.} Yes. Yes, I can count.

Mr. {Glicksman.} I don't think it would fully comply with the mandate to protect the public health with an adequate margin of safety.

Mr. {Lance.} And would it be illegal?

Mr. {Glicksman.} If not supported by substantial scientific evidence it would be arbitrative of the EPA to set the standard between 65 and 70.

Mr. {Lance.} And would there be a legal remedy for those who thought it illegal?

Mr. {Glicksman.} Regulations issued by EPA are routinely challenged in the courts, in the Courts of Appeals, and the Courts of Appeals have the authority to invalidate and remand or send back to the agency regulations that don't comply with the statute.

Mr. {Lance.} And has that occurred regarding ozone?

Mr. {Glicksman.} It has occurred in the past regarding ozone.

Mr. {Lance.} And the standard has had to be changed as a result of that?

Mr. {Glicksman.} Yes.

Mr. {Lance.} And therefore there would likely be a suit if the EPA were to decide this should be 70 or 65 or somewhere--

Mr. {Glicksman.} My experience is that there is going to be a lawsuit no matter where EPA sets the standard. It is going to be challenged by those who think it is overly protective and those who think it doesn't go far enough.

Mr. {Lance.} Mr. Eisenberg, your opinion on what I have just asked.

Mr. {Eisenberg.} So first of all, there is a certain irony to the folks that are pushing for a standard of 60 are the same ones that say that we should only be considering science. And 60 is something that EPA dismissed on science grounds. I mean, they said the science doesn't support 60. So I always find that a little odd.

That being said, so the current standard, 75, was challenged, and as Professor Glicksman says, by both sides.

And the court upheld that standard.

Mr. {Lance.} Yes, that is my understanding. The court has upheld the 75 standard. And then Mr. Eisenberg, I have an industry in my district that manufactures critical water infrastructure components. This is in Phillipsburg in Warren County, and I believe that this could be very damaging to that for the reasons you have suggested. Mr. Eisenberg, could you comment on the cost of non-existing pollution control methods and how that adds to this debate?

Mr. {Eisenberg.} Sure, and the term, EPA's term, is actually unknown controls. I mean, non-existing--you know, they basically just haven't told us what they are. We don't know if they exist or not. We are pretty sure they don't exist because they didn't tell us. But they call them unknown controls. That is sort of their term of art.

And you know, modeling the unknown is the chief difference between our 2 studies, I mean, you know, to answer the question from before. You know, that is kind of the issue here. What do you consider the unknown? And you know, we took an evidence-based approach. EPA just kind of arbitrarily picked a number and assigned a flat line. That is about the same cost as a lot of the known controls. So you know, we think it is a lot steeper. We hope we invent a

better mousetrap, but if we don't you got to start shutting down, and that gets expensive.

Mr. {Lance.} Thank you. My time has expired. I respect all the members of the panel. I think this is a very challenging and difficult situation, but we should move forward for the economy of the Nation and the better health of the Nation.

Mr. {Whitfield.} At this time I recognize the gentleman from Kentucky, Mr. Yarmuth, for 5 minutes.

Mr. {Yarmuth.} Thank you. Thank you very much, Mr. Chairman. Thanks to all the witnesses. Mr. Cox, I listened carefully to your testimony. I want to be very clear. It is my understanding that you said that there is no evidence that reducing ozone has resulted in any public health benefit. Is that correct?

Mr. {Cox.} Yes, or to be very precise, studies that have looked objectively at causality have failed to find evidence of a causal impact of changes on ozone on changes in public health.

Mr. {Yarmuth.} Well, I live in a--I represent Louisville, Kentucky. We are a non-attainment community making progress. We have an area of town called rubber town that has I think 32 chemical companies operating in it.

Historically we have had tracking. You can see the cases of asthma and other respiratory ailments where they have been admitted from the hospital, where they come from. There is no doubt that there has been a disproportionate amount of those cases surrounding rubber town, and as we have made progress in ozone, those cases have gone down.

Now, obviously they haven't done pathological studies I think or analyses of that. But Dr. Diette, would you like to respond to that because I think that is the fundamental question we have to deal with. If there is no benefit to reducing ozone, no health benefit to reducing ozone, then obviously, none of these rules would make sense. But in terms of your clinical experience and knowledge, how would you respond to that?

Dr. {Diette.} It is a great question, and I think but for Dr. Cox who I respect his opinion, we wouldn't be talking about this. I think the world has mostly moved beyond this question. So this isn't really something that in 2015 we should be talking about, about whether ozone affects human health. We are way beyond that. And I saw in your written testimony, I saw some interesting things. I think one was that this idea that there might be a statistical test which you could assess causality. That is not the way we assess

causality. Statistics are part of it. They are supportive of it. But causality is a judgment. It is a judgment. And you know, I know you would like a statistical test, but that isn't the way it works.

The other thing is is that you cited my friend, Francesca Dominici, for one of her articles where she talked about the need to advance the science past just observational studies and to consider things like natural experiments. And I think that is a good idea. I mean, I endorse that as well. And I think the idea of a natural experiment is when these things happen, right, because we can't do a randomized control trial the way we can with a new drug. But when these changes occur, we can study what happened as a result of them. And MIT did I thought a great study, looking at the effect of the NOx trading and with the NOx going down and the ozone level going down by several points showing an improvement in healthcare costs among other things.

So I think we have got that sort of evidence as well.

Mr. {Yarmuth.} Thank you for that. Mr. Eisenberg, I am interested in your survey of members because among the many fine companies that operate in my district, I have 2 Ford plants, major Ford plants, 1 major appliance manufacturer, General Electric. I haven't heard from any of them about

these ozone rules. As a matter of fact, I was with the manager of the Ford plant, the Ford truck plant, over the weekend, and he suggested that there were expansion plans on the way, new jobs being contemplated. We already have over the last 5 years 4,000 more employees at Ford in my district.

And we quite frankly haven't heard from any of those 32 chemical companies about the ozone rules. We haven't heard from anybody. So I am curious as to whether--Louisville is a very special place where people just don't complain or whether--and there is probably some of that there--or whether you know, the responses that you got in your survey were kind of the natural inclination of people to say yeah, regulation is bad. I would resist that.

Mr. {Eisenberg.} So I think it is a legitimate question. You know, I can certainly say that a lot of those companies in your district are talking to us. So you know, we will urge them to also talk to you about it. You know, certainly a lot of the more energy-intensive industries are extremely concerned about this. Auto Alliance who represents the auto industry joined our comments I believe and came down on the same place we did.

So you know, the voices are out there. You know, I think there is, you know--we probably could do a little bit

more to amplify them. But that being said, you know, we are hearing it. You know, we were a little surprised by the results in our study, too, in our poll, too. We kind of didn't know what we were going to get. We tried to be as unbiased as possible. We were very surprised, number one, that the folks really understood this issue because it is a technical issue. And number two, we are pretty adamant about the fact that it was going to be a real barrier to doing their business.

Mr. {Yarmuth.} Right. I would suggest just in closing that with corporate earnings being at very, very high levels--even WD-40's earnings, I saw they had a nice earnings report in April. And it is kind of hard to say that this regulation is having a very significant adverse effect on American business. I yield back.

Mr. {Whitfield.} The gentleman yields back. At this time I recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. {Shimkus.} Thank you, Mr. Chairman, and I am sorry. Like many people, I have been bouncing back and forth to the hearing below. But I am sure many of you saw the beginning of this hearing of last week when I was talking about really--and I am glad my friend from Kentucky is still here because

1928 although this is about the ozone, but for many of us, this is
1929 about the cumulative effects of regulation and the cost and
1930 challenges of responding by either the producers of energy or
1931 the manufacturing sector.

1932 And we weave the story about changing the rules midway
1933 through a baseball game. If you change the strike zone, you
1934 change the outs per inning. You bring in the fences. You
1935 take the fences out. You change the foul lines. How can
1936 business keep up with those changes? And then I talked about
1937 utility MACT, boiler MACT, cement rule, cross-state air
1938 pollution, 111(d), 111(b), particulate matter, tier 3, and
1939 ozone. That is a lot. I believe that is a lot for
1940 manufacturers to respond to.

1941 And so when we have these hearings, right, like we did
1942 last week, we have it on 1 emission standard with the EPA
1943 saying there are health benefit. But we never have this full
1944 debate about--there are health benefits of being poor. There
1945 are health benefits--there are health disadvantages of being
1946 poor, you know, when people are dislocated by job and they
1947 lose their employment, they lose their health benefit.

1948 So this cumulative effects of these regulations--and
1949 they are going on at the same time. This ozone PM is a
1950 perfect example. We don't even have states complying with 75

parts per billion, and the EPA wants to ratchet it down to 65 or 60, while we are doing the other, 111(d) and 111(b) and all these other rules and regs. It is very difficult for people to get their hands on.

So in my time, if Mr. Eisenberg, Ms. Wesley, Mr. Freeman, and Ms. Taylor would--the basic question is do you think the EPA adequately evaluates the cumulative effects of the regulations?

Mr. {Eisenberg.} So I think they--I mean, they are supposed to by executive order, by 13563.

Mr. {Shimkus.} Which is a recent permutation. This is a recent executive order.

Mr. {Eisenberg.} They don't seem to be doing it here. They really don't seem to be doing it here, and in particular, when you look at the conflict between this and some of the other regulations, I mean, first things first. There are dozens of regulations already on the books that take out the same pollutants that we are talking about here, NOx and VOCs. I mean dozens on almost every industry, which is why we are getting the reductions we are getting in addition to the ozone standard.

But at the same time you start to think about, okay, so we had a truck manufacturer come in the other day. And they

are dealing with a new fuel economy rule. And one of the challenges they have got is they are also dealing with, in expectation of the new ozone standard, a stricter NOx standard.

Mr. {Shimkus.} Right.

Mr. {Eisenberg.} Well, the controls that go on in an engine to deal with NOx use fuel. So it is another piece of equipment. And so you kind of can't have the two together. So as they are trying to ratchet one, they can't ratchet the other. They are really struggling with it. Hopefully they will figure it out, but it is a real challenge.

Mr. {Shimkus.} I had an industry come in and say we can get to the NOx standards, but by doing so we increase the greenhouse gas standards. We just can't meet the same standards. Anybody else of the four that I offered want to respond?

Ms. {Wesley.} I had--

Mr. {Shimkus.} Just--

Ms. {Wesley.} Yes.

Mr. {Shimkus.} Okay. You want to add? Okay. Then we had also Mr. Freeman and Ms. Taylor. Did you have any?

Ms. {Taylor.} I definitely agree that I don't think at this time the cumulative effects of regulation are carefully

being considered. That is very obvious. I can tell you from my standpoint. I am an environmental regulatory attorney by training. I mean, this is my bread and butter, and you know, even with the subject matter expertise, it is just an enormous amount of information to manage. And quite frankly, compliance execution is very challenging. But that is nothing new.

Mr. {Shimkus.} Mr. Freeman?

Mr. {Freeman.} I am not aware that a lot of agencies if any of them do the cumulative overview. I haven't personally experienced that, but I do think that it is getting more and more complex and that is one of the challenges we have had. We have actually had an instance where we had a can of WD-40 that was under 100 percent California Air Resource Board regulations. Get another regulation. So we had regulatory overlap on the same product against 2 agencies that did not agree how they measured VOCs, let alone what the metric for success was.

So we have actually gone beyond it just being complex to now they are getting into conflict at times.

Mr. {Shimkus.} Thank you. And I will just end on this. I chair another subcommittee, and we deal with the NRC and we had a great hearing on the NRC. And the NRC evaluated this

standard, it costs this much, and the next standard costs this much and the next standard costs this much. But it was not just additive. It really was--the true cost was multiplicative, and that is the challenge that we have with these multiple regulations. I yield back. Thank you, Chairman.

Mr. {Whitfield.} The gentleman yields back. At this time I recognize the gentleman from West Virginia, Mr. McKinley, for 5 minutes.

Mr. {McKinley.} Thank you, Mr. Chairman. I am just trying to absorb all this information. I don't come from a medical background. Mine is an engineering background. So I am trying to understand a little bit, except some of the discussion about the health risks. But I have heard fairly consistently here the inclusion of asthma included. My son has asthma, so I have been sensitive to that from the day he was born.

But I am curious that we seem to be attacking our industries as part of a solution. I am just going to deal with asthma, if we could. And those of you with a medical background, I want to accept that, that there could be something there. But I am also, since we have been talking about this the last couple of years have done additional

research. And I find that there are other factors that are seemingly far more reasonably the cause of asthma attacks. Genetics, ethnicity, why we have more asthma attacks in our Afro-American community and in our Puerto Rican/Hispanic communities. He deals with poverty, poor diet, stress, overweight, and lack of exercise in our children, exposure to cigarette smoke, smokers. You have a greater likelihood of having an asthma attack if you also have dermatitis or hay fever allergies. Indoor air quality are all of these factors. Indoor air quality. We have dust mites, cockroach and mouse allergens, mold, animal dander, formaldehyde, dust. I could go on with all--but we are not addressing that at all. We are going to say let's go after manufacturing and have them lower from 75 down to perhaps 60. But we are not addressing what other reports are saying are far more causational than others. In fact, this report, Dr. Diette, from your Johns Hopkins institution, they have come out with a report themselves just recently and said that they can't find a connection. They say there is no statistical difference between the rate of asthma attacks in high-pollution areas than in non-pollution areas. I thought, that is interesting because I thought all the studies said there is directly a tie. Yet Johns Hopkins came out in opposition

to that. So did the--

Dr. {Diette.} Is that the Keets study?

Mr. {McKinley.} --University of Utah at Los Angeles study. I could go on with that but--

Dr. {Diette.} Is that the Keets study?

Mr. {McKinley.} That was a study performed by Keets--

Dr. {Diette.} Yeah.

Mr. {McKinley.} --McCormick, Pollack and--

Dr. {Diette.} Just so it is clear, the conclusion of that study is not what you said it was, right? So the conclusion of that study has to do with the asthma prevalence, right, so not the asthma attack rate.

Mr. {McKinley.} Asthma prevalent.

Dr. {Diette.} Asthma prevalence.

Mr. {McKinley.} Yeah.

Dr. {Diette.} And what that determined was that race and poverty were strong determinants but urban dwelling was not a strong determinant of the prevalence of asthma.

Mr. {McKinley.} So I want to go to--

Dr. {Diette.} There is no--well, excuse me. There is no indication--

Mr. {McKinley.} Can I--I reclaim my time. I want to learn more from this but--

Dr. {Diette.} I appreciate it.

Mr. {McKinley.} --I also want to figure out a little bit about Hawaii. Hawaii operates right now from what I understand in their attainment counties, are operating at about right now currently at around 50 parts per billion, and they have been lower. But yet the rate of asthma, whether it is prevalence, attacks or what, is 42 percent higher than the national average here on the continent. I am puzzled with the disconnect.

So I want to go back to yours, Dr. Cox, if we could because I was fascinated with one remark that you made and that was just--I heard and maybe you can clear it up--is that the concentration ozone may not be the issue. Ozone in and of itself, someone exposed to ozone, even at a lesser level, is going to have a triggered attack. Did I misinterpret that?

Mr. {Cox.} No. I think that indeed people who have asthma may be triggered at lower concentrations of ozone. I think you have hit the key point which is that ozone has many causes. I think the key policy question is what happens to asthma attacks and other health effects when there is a change in ozone level? And the discussion that Dr. Diette and I will put in writing has to do with the difference

between statistical associations between levels of pollutants, pet dander, and other factors and what happens when you remove or reduce one of them. I think the most important scientific fact for us today is that decades of reduction in ozone levels have not produced the predicted health benefit.

Mr. {McKinley.} My time is out, but I just was hoping that you might have been able to help clarify this. There are other issues that are far more prevalent in causing an asthma attack, and that is what I was looking for.

Dr. {Diette.} I would interject, though. I would tend to ask--

Mr. {McKinley.} We don't seem to be addressing that.

Dr. {Diette.} Well, I think you should direct your question to me, though, and not a biostatistician. It is honestly not the statistician's job to determine what causes asthma, and I think you have done a wonderful job of laying out many of the different causes of asthma, and what you have highlighted is how generally complex it is as you must know from your son, right? And one of the principles of treatment of asthma is that you have to do environmental control on everything at once that you can identify that matters. So it is not sufficient to just take care of the mice or the

cockroaches or the dust mites that you mentioned, nor is it enough to get rid of cigarette smoke. You have to do all of those things simultaneously for the asthmatic airways to be in the best state of inflammation and therefore not have an attack.

So that is why it sounds complicated, and that is why it is complicated because all those factors coalesce together and form the syndrome of asthma.

Mr. {McKinley.} But these reports say that is the biggest cause.

Mr. {Whitfield.} The gentleman's time has expired. At this time I will recognize the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. {Johnson.} Thank you, Mr. Chairman. Dr. Cox, would you like to respond to what you just heard?

Mr. {Cox.} Certainly. I fully agree and emphasize that there are multiple causes of asthma. I think the idea that we should expect benefits from removing or reducing one of them without reducing the rest, as Dr. Diette describes, leads directly to the empirical question, does it work? Does reducing ozone reduce the desired health benefits?

Mr. {Johnson.} Right.

Mr. {Cox.} For that question, for the question of how

do changes in exposure change health effects, there is ample evidence, there is evidence from decades of measurements on ozone levels and measurements on hospitalization and indeed death rates, and it is I think very much the job of the biostatistician to say opinion aside, subjective judgment aside, political motivation aside, what do the data tell us about what has actually happened when ozone has been reduced? And the answer from the few studies that do not take a correlational approach or a judgment-based approach but take an empirical data-driven approach, give the perhaps disappointing but clear answer that there is no detectable health benefit or health effect from reducing ozone.

Therefore, the believe that if we pour more energy and effort into further reducing ozone, we should expect fewer asthma attacks, better attendance at school, fewer mortalities, and the other benefits that we have heard about. That expectation is inconsistent with decades of empirical results to show that it just ain't so.

Mr. {Johnson.} Okay. Thank you very much. You know, I have got 4 children. I have got 6 grandchildren. I am very concerned about making sure that our air is clean, that our water is clean, that my children are drinking and eating and breathing the right kinds of things.

But I think when we throw out and in most cases make secondary and oftentimes ignore the economic implications of some of the things that we are doing, take an area like mine where I represent 18 rural Appalachian counties. You rule out the economic implications of these rules, and you shut down companies and you eliminate opportunities, even if the health implications--and I am not a doctor--even if the health implications are bona fide, and I am not saying they are not, people don't have the money to buy insurance. They don't have the money to go to a doctor. Doctors aren't going to come to those areas to treat those patients. We can't ignore the economic implications.

Mr. Eisenberg, your organization released 2 studies over the past year looking at the economic impacts from a lower ozone standard, and I have found the analysis by NERA Economic Consulting both informative and concerning. I looked at how many of my 18 counties would be out of attainment with the standard set to 65 parts per billion, and to my dismay, I learned that all 18 of those counties would be in non-attainment.

In my district we are seeing signs of life due to increased production of oil and gas, thanks to advances in fracking and horizontal drilling technologies. But the

regulations that accompany this new ozone rule standard will most certainly slow and ultimately shackle the growth that we have seen in our communities as I pointed out to Ms. McCabe at our last hearing last week.

In fact, let me read for the committee's benefit what NERA said about the new ozone rule and its impact on oil and gas production. A tightened ozone standard has the potential to cause non-attainment areas to expand into relatively rural areas. Where there are few or no existing emission sources that could be controlled to offset increased emissions from new activity. If non-attainment expands into rural areas that are active in U.S. oil and gas extraction, a shortage of potential offsets may translate into a significant barrier to obtaining permits for the new wells and the pipelines needed to expand or even maintain our domestic oil and gas production levels. Equally concerning is the EPA's Clean Power Plan which envisions a major shift nationwide from coal-fired power to natural gas, but with the rollout of these ozone regulations, I am afraid that our manufacturing industry will not have a source of reliable and affordable energy. This is really, really bad news for my constituents, for my state. You know, I have spent all of my time talking and asking somebody else's question, and I don't get a chance

to ask my own. So I think I have made my point. We can't throw out the economic concerns. Throwing out the baby with the bath water doesn't solve the problems. If we don't have an economy that can attack these problems with confidence and resources, we are never going to solve them.

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

Mr. {Whitfield.} The gentleman's time has expired. At this time I will recognize the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. {Latta.} Well, thanks very much, Mr. Chairman, and thanks for holding today's hearing. And thanks to all of our witnesses for being here. I really appreciate your time and your patience.

Ms. Taylor, if I could start with a question to you, in your testimony you say that the EPA and states should carefully consider whether requiring manufacturers to achieve further drastic reductions in VOC content in consumer commercial products is technically feasible at this time and also worth the time and resources spent my manufacturers to comply for a low return on investment in terms of improved air quality.

Would you like to comment on lowering the VOC content at the Henry Company's types of products that you have? And how

long does it take to reformulate the products for roofing material out there to achieve those VOC content and then have to bring that to market?

Ms. {Taylor.} Sure. Well, first let me say that my comment was specifically related to the State Implementation Plan phase. So not at the statutory level where we have already heard that cost is not considered, but really at the implementation plan phase where EPA and the states really work together to, you know, design the appropriate plan for the individual state.

In terms of the impact on a company like Henry--and this is my job. That is what Director of Product Stewardship means. I mean I basically manager our SKUs. So I am the person responsible for restricting a specific SKU that, you know, for whatever reason can't comply with a VOC content limit in a certain jurisdiction.

In terms of what we initially tried to do, when we receive new regulatory guidelines, and of course we make every attempt to comply because we are responsible corporate citizens, we go through our SKUs. We sort out our products in terms of what currently complies and what does not. That process alone probably takes a few months. Then after that process is over, we then look at the products that do not

comply because those are the products obviously that we are concerned about in terms of the regulation. And we see if any of those are fairly easy to reformulate. Fairly easy, by the way, means like probably a year--fairly easy to reformulate and you know, would go about making those changes.

Then we take a look at the products that are not easy to reformulate, and by not easy, I mean the reformulation process could take 3 to 6 years. And that is not an exaggeration. We have a number of products where that has been the case.

Mr. {Latta.} May I ask you, how many at the company would be working on that?

Ms. {Taylor.} Oh, great question. Several. That would probably involve--in an approximately 450-person company like Henry, I would say probably between 15 and 20 would be in that, and quite frankly, we may even bring in outside consultants to assist us.

Mr. {Latta.} So really not developing a new product, just making sure that the one or those products are compliant? Nothing to advance a new product?

Ms. {Taylor.} That's correct.

Mr. {Latta.} Okay.

Ms. {Taylor.} That's correct.

Mr. {Latta.} Let me ask you another follow-up if I could because I thought what you said was kind of interesting, really, your closing line in your testimony. You said that the primary focus of the EPA should be to provide additional support to those air quality management districts that are currently in non-attainment status to help them reach attainment status under the current level before making the goal of reaching attainment status even more difficult for those states to obtain.

And I think that maybe what you just said kind of answers that when you are looking at the amount of time that you are putting in for products that are already--I am going to assume we are going to meet those attainment where you were. But would you just want to elaborate just a little bit on that? What would you like to see the EPA out there doing?

Ms. {Taylor.} Well, I think in terms of working with--so still working under State Implementation Plans because obviously they would have to be revised with any new statutory, regulatory changes. But really, taking a look at what are the main sources. For example as we are talking about VOCs and ozone, what are the main sources? And we know and Mr. Freeman has echoed this as well that consumer

products are one of the smaller sources. And so from our perspective, we quite frankly often feel as though we have been given perhaps more attention than we deserve based upon the amount of pollutants that are coming from our particular industry. So in terms of what EPA could do, I would respectfully suggest that they work with the states to look at the larger sources of pollution and perhaps, you know, review technology, available technology at the time, perhaps you know, just have even better--quite frankly, even something like better communication would help this entire process.

As we have alluded to, Mr. Freeman and myself before, in terms of EPA working with the individual state air districts, there are a number of challenges with that. So that would be quite frankly a good start.

Mr. {Latta.} Well, thank you very much. Mr. Chairman, I see my time has expired, and I yield back.

Mr. {Whitfield.} the gentleman's time has expired. At this time I recognize the gentleman from Texas, Mr. Flores, for a 5 minutes.

Mr. {Flores.} Thank you, Mr. Chairman. Mr. Chairman, I would like to follow up on one of the comments that the Assistant Administrator said last week when she testified. I

asked her the question about why has the EPA cost calculation gone down from $90 billion to take ozone requirements from 84 down to--why the 2010 estimate was $90 billion and why their 2014 estimate was $40 billion, and she said that it was because the 2010 estimate was taking the ozone estimate from 84 parts per billion down to 65 parts per billion. That turned out to be a slightly disingenuous answer because she knew full well that the cost embedded to take it from 84 to 75 was 8.8 billion which means that 81 billion was left to take it from 75 down to the 65 estimate. So I will be sending her a letter to ask her to explain why the difference, the $39 billion difference in the estimate from $81 billion down to $42 billion in their 2014 estimate so that we can try to get that cleared up for the benefit of the committee.

Mr. Eisenberg, you had mentioned in your testimony that the EPA is proposing a new standard for which you can--and we have talked about this before, that we only can identify 35 percent of the necessary technologies to get to a 65 parts per billion standard and that therefore the unknown controls were 65 percent in terms of a path to compliance.

So this being essentially that the EPA is proposing a standard where the majority of the control technology does

not even exist. Is that correct?

Mr. {Eisenberg.} They certainly haven't identified it. So that is our view.

Mr. {Flores.} Okay. And so that is obviously an area of concern. So one of the questions I have raised to the administrator last week was how should that be priced? And they relied on past calculations which were the easier ozone reductions to achieve than the one we are getting now because we are getting to the point of diminishing returns.

So I would ask you a 2-part question. As you get to the part of diminishing returns on control technology, how should the pricing work? Because you are getting diminishing returns, should it be higher or lower? And also, if it is unknown, therefore there is a higher risk that that technology doesn't exist, how should that be priced?

Mr. {Eisenberg.} So that is an excellent question, and that is one of the real challenges in looking to the past, including the immediate recent past as a predictor of the future on this issue.

NOx was controlled by CARE and a lot of other statutes, but that is why it is more expensive now because those technologies are now gone. And so the low-hanging fruit is gone. The high-hanging fruit is gone. Things are getting a

lot more expensive. And in fact, you have just run out pretty quickly when you start to do this.

You know, the question of modeling unknown controls, we continue to be surprised that EPA just draws this flat line at $15,000 per ton, you know. I don't want to say they don't explain it. They do explain it. We just don't necessarily agree with where they are coming from. But you know, the real issue is, you know, they are essentially modeling hope, right? I mean you are modeling the hope that we will figure this out.

Mr. {Flores.} Yeah, and that takes me to sort of the real world. I mean, my question to her was if the cost by an offset today is $170,000 a ton in the gulf coast area of Texas, wouldn't you price the offset technology at some premium over that versus coming up with the price of hope at $15,000 a ton. So shouldn't it be priced more at, you know, $300,000 a ton or something more reasonable? I mean, what is your comment on that?

Mr. {Eisenberg.} So I mean, the current offset prices in Houston are $175,000 per ton of NOx and $275,000 per ton of VOCs. In Southern California, they are $125,000 per ton of NOX. So there is definitely a disconnect there.

Mr. {Flores.} So theoretically, the price of an unknown

technology, since you have got the risk that it may never develop, should be higher in coming up with the--

Mr. {Eisenberg.} We certainly expect it to be higher than $15,000 per ton.

Mr. {Flores.} Ms. Taylor, I appreciate your prior testimony because you give a real-world perspective on these issues. And I don't think you answered this in your last--this is kind of a modification on the questions before, and this is more specific. Does the roof coating industry currently have the technology to achieve further significant reductions in the VOC content of their products?

Ms. {Taylor.} That is an excellent question. It really depends upon the product. If you are talking about roof coatings, you can make an argument on both sides. Perhaps the technology is currently available where we could achieve further significant reductions. If you are talking about roofing adhesives and sealants, which have different performance characteristics obviously than a traditional paint, you know, coating, then I would say no. We currently don't have the technology. We have been researching the technology for the past 2-1/2, 3 years, and we will have to do some--I don't know, we will have to get fairy dust or something. We will have to sort it out if further drastic

reductions are required.

Mr. {Flores.} Okay. Thank you for your answers. I yield back.

Mr. {Whitfield.} The gentleman's time has expired. At this time I will recognize the gentleman from Florida, Mr. Bilirakis, for 5 minutes.

Mr. {Bilirakis.} Thank you, Mr. Chairman. I appreciate it very much. Mr. Freeman, you indicate cost to your company and industry to meet existing volatile, organic compounds to regulations have been very significant. Could you elaborate on the costs to date for your industry?

Mr. {Freeman.} I am over here.

Mr. {Bilirakis.} Oh, okay. Very good. Thank you.

Mr. {Freeman.} Cost per day?

Mr. {Bilirakis.} Yeah, per day.

Mr. {Freeman.} That is not a measure that--

Mr. {Bilirakis.} No, cost to date for your industry.

Mr. {Freeman.} If I look at our R&D effort alone, it would be several million dollars. Not included in that would be our ongoing supply chain costs I talked about a little bit earlier that can be a result of regulatory compliance, our ongoing marketing costs and our ongoing people costs. I have not added it all up. I am almost a little afraid to, but

they are not easy costs to track necessarily, completely, and accurately. But we know that it has been significant--

Mr. {Bilirakis.} Thank you--

Mr. {Freeman.} --the view that we do have.

Mr. {Bilirakis.} Thank you. Ms. Taylor, have the costs of compliance so far been substantial for your company and the roof coatings industry?

Ms. {Taylor.} Yes. The cost--for us especially at Henry in particular, I think the most adequate measure would just be in the number of products that we have had, already have had to restrict from sale in certain air quality management districts. As I said, we have over 1,200 SKUs. There are certain parts of this country where we sell, you know, less than 50 or 60 individual SKUs.

Mr. {Bilirakis.} Thank you. Ms. Wesley, for the Baton Rouge Area, have the costs to meet ozone regulations in the past been significant? Do you believe that EPA's estimate to implement the proposed ozone rule are accurate or do you believe it will be more costly than expected?

Ms. {Wesley.} I certainly believe it will be more costly than expected. We are hearing from our companies in the Baton Rouge Area and across the State of Louisiana the costs are excessive. It is something like--I don't have an

exact number for you, but we are hearing from our companies that it is significant.

Mr. {Bilirakis.} Okay. Very good. Thank you. Just this past week a survey was released indicating that 26 states have raised concerns about the role of background ozone, including both naturally occurring and internationally transported contributions to ground-level ozone as an achievability or implementation challenge. Mr. Eisenberg, what happens to permitting for new and expanding businesses when ozone standards are set close to background levels?

Mr. {Eisenberg.} Thanks for the question. It makes it extremely hard. You can't get out of it. I mean, think of the San Joaquin Valley for a minute. So in the San Joaquin Valley the air regulators there--and they are in really bad non-attainment, probably the worst in the country. The air regulators there have said to meet the 70 or 75 parts-per-billion standard, it is going to require--and this is the regulators saying this--it would require zeroing out emissions from all stationary sources, all off-road vehicles, all farm equipment, and all passenger vehicles. That is how you get there to account for the ozone. So we have got a real problem.

Mr. {Bilirakis.} Yeah. Do you believe EPA's proposal

to bring down levels lower than the current levels which many are still in the process of being compliant will have a positive or negative impact on the manufacturing sector?

Mr. {Eisenberg.} So we believe it will have a--you know, the numbers show that we will have a manufacturing-wide negative impact. No sector is really spared here. Everybody gets hit.

Mr. {Bilirakis.} Thank you very much. I yield back, Mr. Chairman.

Mr. {Whitfield.} The gentleman yields back. At this time I will recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. {Griffith.} Thank you, Mr. Chairman. I appreciate the members of the panel for being here today. I apologize I have not been here for the whole hearing because I have been at another hearing downstairs, a very important hearing as well. So I do apologize for that.

Mr. Eisenberg, I want you to go over that again because it is staggering. You just indicated to Mr. Bilirakis that I order to comply based on background or foreign ozone levels you were talking about the San Joaquin Valley in California. I don't represent anything close to that, but I think it might be important to hear that again because it was

staggering. Could you tell us again?

Mr. {Eisenberg.} Yeah. And this comes from their regulators. Because of geographic factors, because of ozone that is wafting in from Southeast Asia and just because of naturally occurring background, they have got a real problem. And so you could literally zero out all the industry there and you still couldn't make it.

That is obviously an extreme case, but the problem is we are getting to levels that this is becoming a more normal problem. I don't think it is ever going to be quite that bad for anybody in Virginia. I hope it won't. But it is a real challenge, and this is why our members, the manufacturers in this country, are on edge because it means that we can't grow if we are in a place like that.

Mr. {Griffith.} I think you told Mr. Bilirakis you would have to eliminate, what did you say, all the farm equipment?

Mr. {Eisenberg.} All stationary sources, so all plants, all off-road vehicles, all farm equipment, and all passenger vehicles. Period.

Mr. {Griffith.} Wow. And so what we are in essence doing is that we are shipping our jobs to other countries, say in Asia, and they are shipping us back the pollution that

then causes this level to be so high that we would have to eliminate all passenger vehicles?

Mr. {Eisenberg.} Well, in that area you would.

Mr. {Griffith.} In that area, right, in the San Joaquin Valley. Been a long day already. Ms. Taylor, let's talk about something that you said in your written testimony. You indicated that the volatile organic compound regulation of consumer and commercial products in certain air quality management districts around the country are approaching the point of diminishing returns in terms of actually contributing significantly to air quality improvement.

Ms. {Taylor.} Yes.

Mr. {Griffith.} So what you're saying is is that you are really not going to have much impact if they go further on your industry? Am I interpreting that correctly?

Ms. {Taylor.} That is correct, yes.

Mr. {Griffith.} So they are really not going to have much accomplishment--

Ms. {Taylor.} Well, I mean you know the greatest gains which is not uncommon--the greatest gains in terms of VOC reduction were made over a decade ago, maybe more than 2 decades ago. And so now what we are working with, especially for certain categories of consumer products--I would imagine

for these regulatory agencies, the goal is to get to zero grams per liter of VOC. And so we now have products that have very honestly gone from 200 grams per liter down to 100, down to 75, down to 50, down to 25. I mean, there is just not much further for those products to go in terms of, you know, being able to sell a product at a price point that consumers will accept and that has performance characteristics that accurately reflect what we market the product for. So that is where we are.

Mr. {Griffith.} And Dr. Cox, I know others have hit on this, but I thought that it was interesting in your testimony that there is a real question, and you testified, and I am quoting, ``EPA's insistence that further reducing ozone is necessary to protect improved human health contrasts with decades of experience revealing no such benefits actually occur.'' Can you explain that?

Mr. {Cox.} Yes. The current usual approach to assessing causation and to predicting whether benefits will occur is to ask selected scientists to form a judgment in light of the evidence that they consider to be relevant, and the scientists that EPA invited to form such judgments have made a judgment that because ozone is deleterious to the lung, reducing its level will have benefits. It is a very

common-sense proposition. However, there is an alternative approach to looking at what will happen which is to adopt the natural experiment. The natural experiment says in hundreds of counties across the United States, ozone has gone down in some cases and has gone up in others. Let's look and see what difference those different histories have made to the corresponding histories of health defects. When that analysis is done, not based on judgment but based on data, no health benefit from reduction of ozone is seen. That doesn't mean that no reductions in health risks have occurred, but they have occurred just as much where ozone has gone up as where it has gone down.

So based on empirical analysis for causation, the science would say there is no evidence of a causal impact of further changes.

Mr. {Griffith.} Let me see if I can translate that because I only have a few seconds left.

Mr. {Cox.} Thank you.

Mr. {Griffith.} So what you are saying is if you take a look at the country as a whole, you don't see any health benefits gained where the ozone level has gone down. You might see that in individual patients but you don't see it across the board when you are looking at the entire

population.

Mr. {Cox.} That is correct.

Mr. {Griffith.} Thank you. I yield back.

Mr. {Whitfield.} The gentleman yields back. At this time we have just a couple more questions, and then we will conclude this hearing. But I will recognize the gentleman from Illinois, Mr. Rush, for 3 minutes.

Mr. {Rush.} Thank you, Mr. Chairman. Dr. Diette, I wanted to give you a chance to respond to anything that you have heard here but particularly the Keets study that was the subject of controversy and how the study was mischaracterized. I want you just to respond to the mischaracterization of the study and any other thing you might want to add.

Dr. {Diette.} Sure. Thanks very much. So it is being misrepresented, right? So first of all what we heard from the member was not even the facts from the study, but the study was simply one that looked at a few different factors and whether or not somebody actually has asthma, so not whether they have asthma attacks. It was not a study of air pollution. So it wasn't a study of air pollution, right? So we can't reach a judgment about ozone from the study. And what it showed was that being African-American and being poor

were independent risk factors of having asthma and that living in a city was not.

It can't even potentially have anything to do with the ozone question because ozone isn't concentrated in cities. It is in valleys. It is in suburbs. It is in rural areas and so forth. So it doesn't inform that question whatsoever. So that is why it is being misrepresented.

But other things that I have heard that I think are unusual, right, so one, there are a whole bunch of issues here we have been talking about. One is I heard earlier in the day that somehow that the parts per billion is going to get down from 75 to 70 on its own with the current regulations, and then I am also hearing at the same time that there is no way to get below 75. So I think there is an inconsistency with what we are expecting to already happen and then what we are saying we can't do.

And I would also just say, too, just probably the last comment I will have with Dr. Cox here, but what he is describing about there not being any benefit is not a mainstream view, right, that there a strong consensus among people who actually take care of sick patients with asthma and other lung diseases that ozone is harmful. It causes illnesses. It causes them to die. It is in our guidelines

to tell people to avoid the outside when there are high ozone days. It is not made up stuff. This is based on science. So I just want to clarify that as well.

Mr. {Rush.} Let me just ask you this. Is there any correlation between diet and ozone as was indicated or lack of exercise? Diet and asthma and lack of exercise and asthma? Are those some preconditions for asthma?

Dr. {Diette.} So like a lot of things, it is very complicated, right? So the relationship between exercise is that for people that exercise outdoors, there is some evidence that somebody who exercises around the time when ozone is high, that that can affect their lung function among other things. So that is an issue. Diet, I don't think we know yet, right? Diet has the potential to be very helpful to us, and so to the extent that people have things that help fend off pollutants, there may be an issue with the American diet that we and others are working on about whether or not modifying that would be protective. But that is not a settled issue.

Mr. {Rush.} Mr. Chairman, I want to thank you so very much for your giving me this time. I really appreciate it. Thank you.

Mr. {Whitfield.} You are welcome. At this time I would

also recognize--did you want to enter into the record--

Mr. {Rush.} Yeah, I want to enter into the record a letter, Mr. Chairman, from the Johns Hopkins University. This letter is Ms. Corinne A. Keet's response, Dr. Keet's response to a letter of inquiry from Senator Barbara Boxer. I want to enter it into the record.

Mr. {Whitfield.} Without objection, so ordered.

[The information follows:]

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

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Mr. {Whitfield.} And at this time, I am going to give 3 minutes to Dr. Burgess of Texas for additional questions.

Mr. {Burgess.} Thank you, Mr. Chairman, but in the interest of full disclosure, I don't have a question but I would like to deliver a soliloquy on the Montreal Protocol, and we are here today talking about things we can do to reduce the number of asthma episodes. But I just got to tell you as someone who has suffered with asthma his entire life, the withdrawal of an over-the-counter remedy for an acute asthma attack has been more injurious than anything else that I have seen in some time. And we can talk about whether or not we are reducing by 1,000, 2,000, 3,000 the number of attacks that may occur across the country if we lower the makeup of ozone by an additional part per billion. But regardless of how the asthma attack starts, when it starts, for people who have reactive airway disease who are not on constant chronic treatment, it is generally 2:00 in the morning or weather changes, somebody brings a dog in the house, some trigger mechanism that you may not even know. But when it happens, there used to be a remedy, and the remedy was drive down to your all-night pharmacy and buy a Primatene mist inhaler. You can't do that anymore, and you

can't do that because of the Montreal Protocol enforced by the Environmental Protection Agency. People tell me that the EPA or I am sorry, the FDA withdrew my asthma inhaler from the market, but that is actually not true. It was the EPA under the Montreal Protocol.

Now, we had a great discussion about this a Congress or two ago, and I attempted to prevail or to get Congress to allow the continued sale of over-the-counter asthma medications. Let me just stress. There is no over-the-counter asthma rescue inhaler available now. There was one for a brief period of time that the gentlelady from Florida's district produced, but then that was taken off the market. So there is nothing out there for the person who has an asthma attack in the middle of the night. But no less than our former Chairman Emeritus, Mr. John Dingell, who had been on this committee for a long time, in precise, quantitative terms, said that the amount of chlorofluorocarbon in an asthma inhaler was, and I am quoting him directly, ``only a piddling amount.'' It seems nonsensical to have removed that from the market, and we have only done a disservice to asthmatics across the country. And it was the EPA that delivered that disservice.

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

Mr. {Whitfield.} Well, thank you both, and I might say that that illustrates one of the concerns that we do have because when that was taken off the market, the price increase for people suffering from asthma as a replacement was significant, which raises the issue Ms. Taylor I think touched on this and Mr. Freeman. We do live in an innovative country. We have innovative people in business, and they are able to come within the guidelines with a lot of money and effort and time. But frequently, and not unusual, it does affect the performance of the product. And so eventually you sometimes reach the point where the product is not what it was, and so the market goes away.

So this has been an informative hearing, and we genuinely thank all of you. Many of you came from long distances, and some of you just came from down the street. But we do appreciate your taking time to be with us and giving us your perspective on this important issue. And we look forward to containing to work with you as we continue to address this issue. And I am also going to ask unanimous consent to entering the following documents into the record: We have a March 17, 2015, letter to EPA Administrator McCarthy from the Baton Rouge Area Chamber and 15 other chambers regarding EPA's proposed ozone rule. And we have

about 10 letters here to EPA Administrator McCarthy from Louisiana chambers outside the Baton Rouge Area. We have a statement of the American Chemistry Council and a statement of the American Forest and Paper Association requesting retention of the current ozone standard. Without objection, I will enter that into the record.

[The information follows:]

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

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Mr. {Whitfield.} We will keep the record open for 10 days, and once again, we look forward to the reply of Dr. Diette and Dr. Cox from--someone asked you all a question. You said you would get back with them. I appreciate that, and with that, we will conclude today's hearing.

[Whereupon, at 12:40 p.m., the Subcommittees were adjourned.]