

**Written Statement of Janet McCabe
Acting Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency**

**Legislative Hearing on H.R. 4775, the Ozone Standards
Implementation Act of 2016**

**Energy and Commerce, Energy and Power Subcommittee
United States House of Representatives**

April 14, 2016

Chairman Whitfield, Ranking Member Rush, members of the subcommittee, I appreciate the opportunity to provide written testimony on H.R. 4775, the Ozone Standards Implementation Act of 2016. Although the Administration does not have an official position on this bill, I would like to make several basic points that I hope will assist the committee as you consider this legislation that the EPA views as unnecessary and harmful to public health and the environment.

The bill under consideration would delay designations and implementation of the 2015 ozone health standard for 10 years. The bill would also extend the review cycle for all National Ambient Air Quality Standards (NAAQS) to 10 years and change other aspects of the overall NAAQS process. The delays in this bill would jeopardize progress toward cleaner air and delay health protections for millions of Americans, including children, older adults, and people with asthma. For ozone, EPA estimates that meeting the 70 ppb standard will yield health benefits valued at \$2.9 billion to \$5.9 billion annually in 2025 nationwide, not counting the health benefits that will be achieved in later years in California. These benefits include the value of avoiding 320 to 660 premature deaths, 230,000 asthma attacks in children and 160,000 days when kids miss school. By delaying the designations process, the bill would also deny citizens in potential nonattainment areas the information they need about air quality to protect their families from ozone exposure.

Ozone is one of the criteria pollutants for which the Clean Air Act requires EPA to set national air quality standards. The other criteria pollutants include particle pollution (PM_{2.5} and PM₁₀), carbon monoxide (CO), sulfur oxides (SO₂), nitrogen oxides (NO_x), and lead (Pb). These pollutants are harmful to public health and the environment, and are associated with a

variety of health effects, including asthma, heart attacks and premature death as well as effects on the environment.

The two step process of a science-based NAAQS review every five years followed by implementation is a system that works. The EPA and state, local, and tribal co-regulators share a long history of managing air quality under the Clean Air Act, supported by a wealth of previously issued EPA rules and guidance.

For ozone specifically, existing and proposed federal measures like vehicle standards and power plant rules are resulting in substantial reductions in ozone pollution nationwide, which will not only help improve air quality and public health but also help many areas meet the revised standards. We expect that the vast majority of U.S. counties outside of California will meet the 2015 NAAQS by 2025 without having to take additional action beyond federal measures to reduce emissions.

The overall framework and policy approach reflected in the implementing regulations for the 2008 ozone standards provide an effective and appropriate template for the general approach states would follow in planning for attainment of the 2015 ozone NAAQS. Planning and implementation work to meet the 2015 ozone standard will build on the progress states have already made to implement the 2008 standards. In particular for areas where states are still actively working toward attaining the 2008 ozone NAAQS, the EPA is committed to helping air agencies identify and take advantage of potential planning and emissions control efficiencies that may occur within the horizon for attaining the 2015 standards. Following past precedent, the EPA intends to propose to revoke the 2008 standards and provide transition rules to help avoid any potential regulatory inefficiencies as states begin implementing the Clean Air Act's requirements for the 2015 standards.

The bill under consideration would stall that cooperative process and delay implementation of the 2015 ozone NAAQS. People in areas with air quality that would not meet the new standard would breathe unhealthy levels of ozone for longer – 10 years or more. The science tells us that breathing air that contains ozone can cause serious health effects. So do the stories of many Americans who wrote to us during the public comment period on the 2015 ozone standard. Exposure to ozone can harm the respiratory system (the upper airways and lungs), aggravate asthma and other lung diseases, and is linked to premature death from cardiovascular and respiratory causes. People most at risk from breathing air containing ozone include people with asthma, children, older adults, and people who are active outdoors, especially outdoor workers. These health impacts pose significant costs on American families and workers, and can adversely affect their daily lives through missed school and work and the need to constrain regular activities.

This bill would specifically delay the next ozone review until 2025, which would potentially delay further public health benefits and also potentially delay benefits to ecosystems and public welfare. Ozone has serious implications for important natural resources such as our National Parks, and can affect plant diversity, damage vegetation and crops, and reduce carbon sequestration.

This bill has other implications for the ozone NAAQS process. It would delay infrastructure State Implementation Plan (SIP) submissions for ozone, including measures to address interstate transport, by 8 years (to 2026 rather than 2018). This would delay requiring new efforts by states to improve downwind air quality in areas that are not meeting or are having trouble maintaining the 2015 ozone NAAQS.

The bill also says that the 2015 ozone NAAQS shall not apply to the review and disposition of certain preconstruction permit applications. In effect, areas with unhealthy ozone levels would for a substantial period of time lack significant planning requirements and new source review requirements for meeting the health-based standard. This would mean that for 10 years, new significant sources of the pollutants that cause ozone pollution could be constructed and operated without regard for the public health standard that has been established by the EPA as necessary to protect public health.

The bill's effects are not limited to the Ozone NAAQS. It also makes a number of changes to the process for reviewing and implementing all six existing NAAQS. These changes would introduce uncertainty into a long-standing, proven approach for protecting public health and welfare. These changes would extend the mandatory, science-based review cycle for all six NAAQS from 5 to 10 years; change the definition of exceptional events to allow inclusion of certain events, including droughts, that may have not been previously considered exceptional events for air quality planning purposes; allow the Administrator to consider technological feasibility as a secondary consideration when revising a NAAQS; and limit consideration of preconstruction permit applications until after EPA has issued final NAAQS implementation and guidance; among others.

A 10-year NAAQS review cycle would delay incorporation of the latest science into Agency decision making. Experience shows that a substantial amount of new relevant research can become available in 5 years. For example, the 2015 ozone standard review included more than 1,000 new studies that were published since EPA last reviewed the standards in 2008. A 10-year review cycle would deny the American public any additional health protection indicated by the latest science. It is worth noting that under the current schedule, when the scientific evidence does not support a revision to the standard, EPA has the option and has exercised the option, both to streamline the review and to retain the existing standard.

Changing definitions to allow more events to qualify as "exceptional events" could allow regularly occurring events, such as hot summer days or recurring drought conditions to be ignored when determining whether an area is violating the NAAQS. Defining them as exceptional events does not change the impact that these conditions have on human health. In addition, these changes are not necessary because EPA is already making efforts to improve the exceptional events process and make sure that states are able to apply the existing tools in the Clean Air Act to when considering the impact of certain events on air quality.

Adding consideration of technological feasibility as a secondary consideration under section 109 would undermine the health-based decision-making which has been central to the success of the NAAQS. Setting a primary NAAQS is about defining what clean, healthy air is. The current NAAQS implementation process allows for consideration of costs as well as technical feasibility. Despite repeated assertions that achieving clean air was just not feasible, American

ingenuity has consistently risen to the challenge and made our country the leader in both clean air and clean air technology. That approach has been very successful for both the health of Americans and our economy. Based on the Agency's experience it is highly likely that new emissions controls or strategies are developed and deployed over time, but we may not have the data to include those technologies in our analysis at the time of the review.

One provision would require EPA to issue implementation rules and guidance concurrent with a revision to the NAAQS. The requirement is based on a false premise. New EPA implementation guidance and rules are not always necessary to enable a new or revised NAAQS to be implemented. EPA has existing rules and guidance that were put in place when implementing prior standards for ozone that can be useful in implementing the new standard. Furthermore, requiring such guidance to be issued concurrently with the standard could lead to an outcome in which EPA would effectively have to decide what the standard was before completing the public process in order to determine whether such guidance was necessary for that standard and develop it in time to be released with that standard. This would also make it challenging for the public to provide informed comment on proposed implementation guidance. We have been working successfully to streamline and make more timely the issuance of necessary implementation rules and guidance.

In closing, the Clean Air Act requires the EPA to set primary air quality standards that protect public health with an "adequate margin of safety" including the health of at-risk groups. Science-based air standards have a proven record of success. Setting and implementing national standards for air pollution has made the air cleaner for all Americans, which in turn has helped Americans live longer, healthier lives. Since 1970, the economy has grown over 200 percent while emissions of key pollutants have decreased nearly 70 percent. National average ozone levels have gone down 33 percent since 1980, and 95 percent of areas originally designated nonattainment for the 1997 ozone standards now meet those standards. The NAAQS process works to improve public health protection across the country and provide the requisite margin of safety the law requires – including for children, who are one of the groups most at risk from air pollution. Forty-five years of clean air regulation have shown that a strong economy and strong environmental and public health protection go hand-in-hand. In fact, as the world's largest producer and consumer of environmental protection technologies worldwide, the United States' environmental technologies and services industry supported 1.7 million jobs in 2008, generating approximately \$300 billion in revenues and exported goods and services worth \$44 billion. EPA is committed to ensuring that these successes will continue while we work to deliver clean air for Americans across the country.