

Opening Statement of the Honorable John Shimkus
Subcommittee on Environment
Hearing on “H.R. 806, Ozone Standards Implementation Act of
2017”
March 22, 2017

Today’s legislative hearing will consider H.R. 806, the “Ozone Standards Implementation Act of 2017.”

Mr. Olson reintroduced this bi-partisan bill this past February, after its development through the Committee process and passage in the House in the 114th Congress as H.R. 4775. Let me thank Mr. Olson as well as Mr. Flores, Mr. Latta, and Mr. Scalise for their particular leadership and thoughtful contributions to the previous bill and what is now H.R. 806.

The Ozone Standards Implementation Act makes practical reforms to the Clean Air Act to streamline implementation of national air quality standards by state and local authorities. These reforms seek to improve the states’ ability to meet the new ozone and other air-quality standards without undermining efforts to ensure and promote the productive capacity of their citizens.

The bill reflects what we have learned from a record developed over a number of hearings and extending back to the Committee’s Clean Air Act forums in 2012. An important lesson from this record is that timelines and procedures established almost 30 years ago can be counterproductive today. They result in unnecessary costs, duplicative efforts, regulatory delay, and economic uncertainty.

The 2015 ozone standards provide a case in point. In October 2015 EPA established a new ground-level ozone standard of 70 parts per billion, down from 75 parts per billion established seven years earlier in 2008.

The practical problem is that EPA had only issued implementation regulations for the 2008 standard six months earlier in March 2015. So just as states were implementing measures for one standard they would now have to divert resources to implement measures for another standard for the same criteria pollutant. Yet EPA projected that the majority of areas that may be subject to the new standards

would come into compliance with those standards under existing rules and programs.

It does not make sense why these areas should be subject to new, long-term compliance and reporting regimes that they would avoid if allowed to let existing measures work. But this cannot happen under the tight timelines that were established almost 30 years ago, when air quality was much worse, and emissions controls were just beginning to take hold.

Add up the many other compliance deadlines for other EPA regulations, related litigation, the rapid pace of new rules, and you can see how this process hinders the ability of states to establish orderly plans and predictable permitting regimes.

As a result, state and local regulators expend resources and time keeping up with a never-ending succession of rules. This undermines their ability to focus on assessing the performance of existing public-health measures. It also undermines their ability to ensure predictability so that people can build and expand their businesses and infrastructure.

HR 806 makes some reasonable changes to update Clean Air Act requirements to address these problems. For example, the bill phases in implementation of the 2008 and 2015 ozone standards, extending the date for final designations for the latter standards to 2025 and aligns permitting requirements with this phased implementation schedule.

It also provides reasonable timing for mandatory reviews of air quality standards by extending the requirement to ten years, while preserving the EPA Administrator's discretion to issue revised standards earlier, if necessary. This falls in line with the Clean Air Act's cornerstone "cooperative federalism" approach—which mandates that EPA establish the NAAQS, but leaves the task of deciding how to achieve them largely to the states.

It requires timely issuance of implementation regulations by EPA to reduce the uncertainty that the states face when developing their implementation plans. The bill also authorizes the Administrator--under certain and appropriate circumstances--to take account of technical feasibility when determining where to set emissions levels that scientists advise are fully protective of the public health.

Other steps the bill takes help ensure states and localities are not penalized for emissions and air quality events they cannot control.

With that, let me welcome our witnesses—five of whom bring the state and local perspectives that we have focused upon throughout this process. They represent California, Maine, Wyoming, and Kentucky— regions that often confront different types of implementation challenges. We will also hear from a representative of the American Thoracic Society.

Let me note for the record that we invited EPA to the hearing and while the agency was unable to provide a witness today, we expect to receive written comments on the bill in time.

I think all our witness will agree that our ultimate goal is to ensure our air quality is protective of public health. Of course, the key to that objective is to ensure we have laws that effectively facilitate standards implementation. That is what this bill is aims to do.