



MATTHEW G. BEVIN  
GOVERNOR

CHARLES G. SNAVELY  
SECRETARY

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

AARON B. KEATLEY  
COMMISSIONER

300 SOWER BOULEVARD  
FRANKFORT, KENTUCKY 40601

April 26, 2017

Ms. Grace Appelbe, Legislative Clerk  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Ms. Appelbe:

On Wednesday, March 22, 2017, I appeared before the Subcommittee on Environment to testify at the hearing entitled, "H.R. 806, Ozone Standards Implementation Act of 2017." Included in this letter, please find my responses to Chairman John Shimkus' additional questions for the record.

The Honorable John Shimkus

1. **Witnesses noted in testimony that it is unfair that, under current law, local jurisdictions may be subject to penalties for failure to attain standards, even though the failure is due to emissions from sources that are outside the jurisdictions' authority to control.**
  - a. **To assist with our identifying the problem fully, would you provide examples of the types of emissions or pollutants, natural or anthropogenic, that are outside your state's control and that may impede your ability to reach attainment of air quality standards so as to subject you to fees or other penalties?**

"Exceptional events", such as wildfires that recently occurred in Appalachia during November of 2016, may impede the ability to achieve the national ambient air quality standard for particulate matter less than 2.5 microns (PM<sub>2.5</sub>) and ozone (O<sub>3</sub>). State and Local agencies are unable to control emissions resulting from wildfires.
  - b. **Are there circumstances in your view in which relief from penalties may be provided either to local or to state level jurisdictions?**

Section 179(d) of the Clean Air Act details the "[c]onsequences for failure to attain" and requires an additional revision to the applicable implementation plan. The implementation plan shall include the permit requirements of



Section 173 of the Clean Air Act. My understanding is that the “offsets” mandated in Section 173 of the Clean Air Act are applicable and there is no relief that can be provided regarding “offsets.”

- 2. Hearing testimony raised concerns about the quality of modeling data. When promulgating nonattainment designations in air quality control regions, should the Administrator base such designation on modeling predictions that do not incorporate state/local air agency input in lieu of the state’s air quality monitoring data?**

No. Failure to incorporate state and local air agency input may result in EPA’s final nonattainment designations based upon erroneous data. During recent EPA analyses for interstate transport of pollution, state and local air pollution control agencies provided clarifying information to accurately reflect emissions inventories of stationary sources and correct modeling inputs used by EPA.

Furthermore, modeling characterizations of the air quality in an area are conservative and do not accurately reflect actual concentrations of criteria pollutants observed at the State and Local Ambient Monitoring Stations (SLAMS). Modeling characterizations can provide beneficial information necessary to establish the appropriate location for the siting of SLAMS. However, considering the significant consequences associated with nonattainment designations, the Division for Air Quality does not find modeling characterizations to be appropriate for designation purposes.

- 3. Are there any other considerations we should take into account concerning H.R. 806 that you believe we did not cover sufficiently in the hearing?**

Currently, EPA is requesting state and local air pollution control agencies to review ozone monitoring data for the previous three (3) monitoring years for which there is complete, quality-assured monitoring data (2013, 2014, 2015). On April 13, 2017, EPA notified states that it intends to invalidate a substantial amount of certified ambient air monitoring data from the period 2013 to 2015. The data collected during those years served as the basis for which states used to determine their recommended designations for the 2015 O<sub>3</sub> NAAQS. Invalidation of this ozone monitoring data could have a significant impact on EPA’s final designations for the 2015 O<sub>3</sub> NAAQS.

Sincerely,

Sean Alteri