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April 24, 2017

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Seyed Sadredin
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Northern Region Office
4800 Enterprise Way
Modesto, CA 95356-8718
(209) 557-6400 • FAX (209) 557-6475

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726-0244
(559) 230-6000 • FAX (559) 230-6061

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308-9725
(661) 392-5500 • FAX (661) 392-5585

www.valleyair.org

The Honorable John Shimkus
Chairman, Subcommittee on Environment
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515-6115

Dear Chairman Shimkus:

Thank you for the invitation to testify before the Subcommittee on Environment on March 22, 2017. The following is the response to your follow-up questions as presented in your April 11, 2017 letter.

- 1. Would you elaborate on your comments in your testimony concerning “formula-based milestones and deadlines that EPA and courts have established in the absence of clear Congressional direction”?**
 - a. What are some specific examples of these milestones and deadlines and how are these actually inhibiting your ability to implement air quality standards?**
 - b. To what extent do these comments relate to formulas and milestones established in the 1990 amendments to the Clean Air Act?**
 - c. Are any assumptions that served as a basis for the formulas you reference no longer applicable, given current air-quality conditions or scientific understanding, to enable effective implementation of air quality plans?**

Since the 1970's, EPA has established numerous ambient air quality standards for individual pollutants. We have now reached a point where various regions throughout the nation are subject to multiple iterations of standards for a single pollutant. For instance, there are currently 4 pending standards for ozone and 4 pending standards for PM2.5. Each of these standards requires a separate attainment plan which leads to multiple overlapping requirements and deadlines. This in turn results in a great deal of confusion, costly bureaucracy, and duplicative regulations, all without corresponding public health benefits.

The formula-based deadlines and milestones that were prescribed in the Act 25 years ago now lead to mandates that are impossible to meet within the formula-based deadlines mandated by EPA as illustrated in Tables 1 and 2, below.

Table 1: Federal Air Quality Standards and San Joaquin Valley Attainment Plans: Ozone

	Ozone			
	1979 1-hr ozone	1997 8-hr ozone	2008 8-hr ozone	2015 8-hr ozone
1979-1997	EPA sets NAAQS (1979): 124 ppb	EPA sets NAAQS (1997): 84 ppb		
1998 – 2003				
2004	SJV attainment plan	EPA finalizes attainment designations		
2005	Standard revoked	EPA implementation rule		
2006	Litigation reinstates portions of implementation requirements under the revoked standard			
2007		SJV's attainment plan		
2008			EPA sets NAAQS: 75 ppb	
2009				
2010	EPA approves SJV plan	Midcourse review	EPA proposes to revise NAAQS: 60 to 70 ppb	
2011			EPA announces it won't revise the standard	
2012	EPA withdraws approval of 2004 plan	EPA approves SJV plan	EPA attainment designation (SJV: extreme nonattainment)	
2013	SJV adopts new plan		EPA proposes implementation rule	
2014				
2015			EPA final implementation rule	EPA sets NAAQS at 70 ppb
2016			District adopts <i>2016 Ozone Plan</i>	EPA proposes implementation rule
2017				EPA to finalize classifications
2018	SJV to adopt "redesignation substitute"			
2019				
Attainment deadline	2017	2024	2032	Up to 20 years after attainment designations

Table 2: Federal Air Quality Standards and San Joaquin Valley Attainment Plans: Particulate Matter

	PM10	PM2.5		
	1987 PM10	1997 PM2.5	2006 PM2.5	2012 PM2.5
1979-1997	NAAQS (1987): Annual: 50 µg/m ³ 24-hr: 150 µg/m ³	EPA sets NAAQS (1997): 24-hr: 65 µg/m ³ , annual: 15 µg/m ³		
1998 – 2003	SJV Attainment Plan			
2004				
2005		EPA finalizes attainment designations		
2006	EPA revokes the annual PM10 standard PM10 Attainment finding for 2003-2005 and 2004-2006		EPA sets NAAQS: 24-hr: 35 µg/m ³ , annual: 15 µg/m ³	
2007	SJV Maintenance Plan	EPA implementation rule		
2008	EPA approves Maintenance Plan	SJV adopts plan		
2009			EPA attainment designations	
2010				
2011		EPA approves plan		
2012			Dec. 20: District adopts plan	Dec. 14: EPA sets NAAQS: annual: 12 µg/m ³
2013		District adopts contingencies EPA proposes approval	Jan. 4 Court ruling: EPA should have used CAA subpart 4, not subpart 1	
2014			EPA designates SJV Moderate Nonattainment	
2015		SJV reclassified as Serious (effective 5/7/15); District adopts new plan & request deadline extension	EPA proposes plan approval and Serious reclassification EPA proposes Implementation Rule (Subpart 4)	EPA designates SJV Moderate Nonattainment effective 4/15/2015
2016		EPA announces it will not act on the 2015 PM2.5 Plan; Deadline to adopt 5% Plan as a result of EPA's inaction 12/31/2016 EPA publishes Implementation Rule	SJV reclassified as Serious nonattainment area (effective 2/19/16) EPA publishes Implementation Rule EPA approves Moderate Plan effective 9/30/16	SJV plan, impracticability and reclassification request EPA publishes Implementation Rule
2017	Second Maintenance Plan due to EPA		Serious plan due 8/19/17	
Attainment deadline	NA	2015	2019	2021 Moderate 2025 Serious

Mobile and stationary sources throughout the nation have now been subject to multiple generations of technology forcing regulations that have achieved significant air quality benefits. Meeting the new standards that approach background concentrations call for transformative measures that require time to develop and implement. These transformative measures require new technologies that in many cases are not yet commercially available or even conceived.

- 2. You 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 jurisdiction' authority to control.**
 - a. In addition to the mobile-source emissions you discussed, would you provide examples of other types of emissions or pollutants, natural or anthropogenic, that are outside your control and that may impede your ability to reach attainment of air quality standards so as to subject you to fees or other penalties?**
 - b. Your comments focused on relief from penalties for local air quality jurisdictions that cannot reach attainment due to emissions beyond their control; are there circumstances in our view in which relief may also be applicable to state level jurisdictions?**

Through decades of implementing effective air quality strategies, air pollution from San Joaquin Valley businesses has been reduced by over 80% through an investment of over \$40 billion by regulated sources. The pollution released by industrial facilities, agricultural operations, and cars and trucks are at historical lows for all pollutants. San Joaquin Valley residents' exposure to high smog levels has been reduced by over 90%. Unfortunately, after all this investment and sacrifice, we have reached a point where we cannot attain the federal standards even if we eliminated all Valley businesses, agricultural operations, or trucks traveling through the San Joaquin Valley.

Federal law specifically preempts local jurisdictions, such as the Valley Air District, from imposing tailpipe emissions standards on mobile sources. The San Joaquin Valley cannot attain the federal standards without significant reduction in emissions from these federal sources. Another example of a pollution source for which we have no local jurisdiction or control is the transboundary transport of pollution. Observational and modeling studies have shown that international ozone precursor emissions can lead to ozone formation within the atmospheric boundary layer over far-upwind areas and under favorable conditions can be transported within mid-and upper- troposphere and contribute to local ozone concentrations.

In the case of California, during spring and summer transboundary ozone is delivered onshore by prevailing tropospheric wind currents flowing across the Pacific Ocean. Some of this transboundary ozone is from natural sources but an increasing proportion is due to a dramatic increase in fossil fuel combustion in Asia over the past two

decades. Through extensive scientific research and air monitoring, the District has established that concentrations of transboundary ozone measured on the California coast at Chews Ridge are highly representative of concentrations found at the same time in transpacific air masses flowing through the gap in the coast range between Pt. Reyes and the Carquinez Strait. This area has been identified by National Oceanic and Atmospheric Administration (NOAA) researchers as the primary entryway for transboundary ozone that is affecting the San Joaquin Valley. UC Davis researchers have concluded that this same pathway was followed by flows of transboundary ozone into the Valley which may have led to the violation of the ozone standards in the San Joaquin Valley.

We believe that common sense and fairness dictate that federal law include an overriding provision in federal law to prohibit imposition of federal sanctions on local regions, including states, where their inability to attain federal standards is due to pollution from sources outside their regulatory authority.

3. You have previously noted that the Exceptional Events Rule as currently implemented does not cover such events as historic droughts or other events. What potential modifications to the exceptional events provisions of the Clean Air Act would you suggest to provide more meaningful relief?

Under current EPA policy, the extreme 100-year drought conditions experienced recently in the San Joaquin Valley and other regions in California are not eligible to be declared "exceptional events" since stagnation and lack of precipitation are not considered eligible events. In excluding stagnation as exceptional events, we believe that the intent of the Congress at the time was to only prohibit consideration of regularly occurring stagnant weather conditions which could vary on a day-to-day basis. We believe legislative language clarifying that extraordinary circumstances such as 100-year droughts should qualify as exceptional events.

4. 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?

We believe all issues were adequately covered at the hearing, however, we believe that shielding San Joaquin Valley residents from the unfair imposition of devastating federal sanctions is an existential issue for our region. Therefore, I want to emphasize that our top legislative priority is the inclusion of an overriding provision in federal law to prohibit imposition of federal sanctions on local regions where their inability to attain federal standards is due to pollution from sources outside their regulatory authority.

Sincerely,


Seyed Sadredin
Executive Director/APCO