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July 31, 2025

Mr. Calvin Huggins
Legislative Clerk
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Subject: Hearing entitled "Short-Circuiting Progress: How the Clean Air Act Impacts Building Necessary Infrastructure and Onshoring American Innovation"

Dear Mr. Huggins,

Thank you for the opportunity to appear before the Subcommittee on Environment on Wednesday, June 11, 2025, to testify at the hearing entitled "Short-Circuiting Progress: How the Clean Air Act Impacts Building Necessary Infrastructure and Onshoring American Innovation."

In the attachment, you will find my responses to the additional questions for the record that were submitted by the Honorable Morgan Giffith (R-VA), the Honorable Rick Allen (R-GA), and the Honorable Nick Langworthy (R-NY).

Please feel free to contact me at 470-524-0697 or James.Boylan@dnr.ga.gov if you have any additional questions or wish to discuss any of my responses.

Sincerely,

A handwritten signature in blue ink that reads "James W. Boylan". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James W. Boylan, Ph.D.
Chief, Air Protection Branch
Georgia Environmental Protection Division

Attachment

Additional Questions for the Record

The Honorable Morgan Griffith (R-VA)

- 1. Your written testimony points out that the PM NAAQS rule fails to address the largest source of PM2.5 by far, which is wildfires. What do you recommend to address that problem?**

PM from wildfires and prescribed fires are the largest source of PM2.5 in most areas of the country. It is critical that the Clean Air Act be updated to add “or action to mitigate wildfire risk” to the section of the Act that covers Exceptional Events. This would allow the contribution from both wildfires and prescribed fires to be removed from consideration when evaluating compliance with the PM NAAQS.

- 2. To what extent did the Canadian Wildfires from 2023-2024 impact national PM2.5 levels? The chart used by the minority does not include data from those years. To what extent were the wildfires a determinative event and why is it important to use current data when modeling the effect of the Biden-Harris PM2.5 rule?**

The chart used by the minority included data from 2020-2022 and does not include data from 2023-2024. The Canadian Wildfires from 2023-2024 resulted in significantly higher PM2.5 levels across the country. Under the new PM2.5 NAAQS, EPA will use PM2.5 data from the three most recent years (2022-2024) to determine which counties will be designated attainment and which will be designated nonattainment. Therefore, it is critical that any discussions of the Biden-Harris PM2.5 rule involve the most current PM2.5 data along with any wildfire events that impacted that data.

The Honorable Rick Allen (R-GA)

- 1. You're from my home state of Georgia and have an abundance of experience with the challenges of the NAAQS process.**
 - a. Does the NAAQS program need a legislative fix to best encourage both a healthy environment and economic growth?**

The NAAQS program needs a legislative fix to address the setting of the NAAQS as well as the implementation of the NAAQS. I believe there are ways to modernize the NAAQS process that could help states implement the new standard in a way that continues to protect air quality without restricting economic opportunities.

- b. Have some of these programs become counterintuitive to the goal of the Clean Air Act?**

The goal of the Clean Air Act is to protect human health and the environment from the adverse impacts of air pollution. However, some of these programs have become counterintuitive to the goal of the Clean Air Act. For example, the "Once In, Always In" policy under the Clean Air Act requires that facilities subject to major source standards would always remain subject to those standards, even if

they reduced their potential to emit hazardous air pollutants (HAPs) below the major source thresholds. This policy discourages voluntary HAP reductions and technological innovations. I believe there are ways to modernize the NAAQS process that could help states implement the Clean Air Act in a way that continues to protect air quality without restricting economic opportunities.

2. At what point should Congress consider a legislatively fixed floor on particulate matter for NAAQS?

Currently, there is nothing stopping EPA from setting the particulate matter NAAQS at or below background levels (levels in the absence of human-made emissions). The proximity of new standards to background levels can put many states in a situation where the new standard is not achievable for many impacted areas for reasons that are beyond a state's control, such as wildfires, international transport, and Saharan dust events. Therefore, the EPA Administrator should be allowed to consider likely attainability of the standard as proposed NAAQS levels approach background concentrations.

a. If most of the levels come from sources outside of industry control should Congress step in and set a standard?

I believe there are ways to modernize the NAAQS process that could help states implement the new standard in a way that continues to protect air quality without restricting economic opportunities.

3. As you're aware Georgia has a thriving economy and is home to many innovative companies and individuals, does the particulate matter rule threaten that growth and success?

Yes, the current level of the particulate matter standard will impact Georgia's thriving economy. Particulate matter levels are currently above the new PM2.5 standard in five metropolitan statistical areas in Georgia (Atlanta, Columbus, Macon, Sandersville, and Augusta). A designations of nonattainment in these areas would threaten the growth and success in these areas and bring economic development to a grinding halt.

a. As someone who has worked with the economic development side of the state, what can you tell us about the rule's potential to chill expansion and growth in my home state?

For areas designated nonattainment, they will be required to implement the most restrictive New Source Review (NSR) permitting process not only for new but also for existing sources. Existing sources will be required to install Reasonably Available Control Measures (RACM) and Reasonably Available Control Technology (RACT). New sources will be required to install Lowest Achievable Emissions Rate (LAER) controls and purchase expensive emission offsets for the precursor pollutants. In many nonattainment areas, industrial sources have dramatically reduced their emissions, yet are still subject to the enhanced controls that come with nonattainment.

For manufacturing or other projects proposed in areas meeting the standard, they must comply with stringent prevention of significant deterioration (PSD) program requirements, including a Best Available Control Technology (BACT) analysis. An even bigger issue is the lack of headroom (difference between the standard and the background levels), making it very difficult to approve permits especially when more than one new source of emissions or facility is modeled based on their cumulative impact.

For many years, I was the Georgia EPD liaison to the Georgia Department of Economic Development and met with many companies looking to locate in Georgia. I quickly learned that companies in Georgia and other states avoided nonattainment areas and attainment areas with little headroom for Prevention of Significant Deterioration (PSD) modeling. In 2012, the annual PM2.5 standard was dropped from 15.0 micrograms per cubic meter to 12.0 micrograms per cubic meter. As a result, we had no new large permitting projects in the four areas designated nonattainment until those areas were eventually redesignated back to attainment. Also, the number of PSD applications were significantly reduced in the attainment areas due to the lack of headroom between the background values and the standard. In 2024, the annual PM2.5 standard was dropped from 12.0 micrograms per cubic meter to 9.0 micrograms per cubic meter. Again, many locations in Georgia are currently over the standard or lack enough headroom for new projects.

The Honorable Nick Langworthy (R-NY)

- 1. Georgia has been a success story in attracting manufacturing and energy investment. But I imagine all that growth doesn't come without headaches. What are you hearing from companies on the ground about how Clean Air Act red tape — specifically New Source Review — is slowing them down or pushing projects elsewhere?**

For many years, I was the Georgia EPD liaison to the Georgia Department of Economic Development and met with many companies looking to locate in Georgia. I quickly learned that companies in Georgia and other states avoided nonattainment areas and attainment areas with little headroom for Prevention of Significant Deterioration (PSD) modeling. In 2012, the annual PM2.5 standard was dropped from 15.0 micrograms per cubic meter to 12.0 micrograms per cubic meter. As a result, we had no new large permitting projects in the four areas designated nonattainment until those areas were eventually redesignated back to attainment. Also, the number of PSD applications were significantly reduced in the attainment areas due to the lack of headroom between the background values and the standard. In 2024, the annual PM2.5 standard was dropped from 12.0 micrograms per cubic meter to 9.0 micrograms per cubic meter. Again, many locations in Georgia are currently over the standard or lack enough headroom for new projects.

- 2. In 2024, the Biden EPA proposed expanding the NSR “project” definition and imposing stricter rules requiring emission reductions be “enforceable,” plus broader monitoring and reporting. Fortunately, we’ve had a change in Administration since that proposed rulemaking began. However, from your perspective, how would the**

Biden EPA's proposed changes have impacted state-led efforts to support economic growth and infrastructure development?

The Biden EPA proposed rule expanding the NSR "project" definition and other proposed rule requirements would have significantly impacted economic growth and infrastructure development across the U.S. by making it more difficult for permit applicants to meet PSD permitting thresholds and requiring additional emission reductions, monitoring, and reporting.

- 3. Across the country, efforts to expand energy infrastructure — whether to power chip fabs, support data centers, or keep up with rising computing demands — are increasingly stalled by burdensome regulatory hurdles. Even routine upgrades to substations or power plants can trigger NSR, despite improving efficiency and reliability. Mr. Boylan, as states push to carry out the Trump Administration's goals of building out critical energy infrastructure and bring advanced manufacturing back to America, how does the red tape and uncertainty created by NSR undermine efforts to secure grid reliability and drive the private investment we desperately need?**

While red tape and uncertainty created by NSR may impact economic development, I do not feel qualified to speak specifically on efforts to secure grid reliability and private investments.