



March 1, 2023

The Honorable Thomas R. Carper
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Shelly Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Carper and Ranking Member Capito:

As the Committee again considers the nomination of Joseph Goffman to serve as Associate Administrator for the Office of Air and Radiation (OAR) at the U.S. Environmental Protection Agency (EPA), we urge you to consider the concerns of the regulated community given the importance of OAR policy to the entire economy.

The business community has a long track record of working with EPA and states to improve air quality across the United States. This cooperative framework, along with continuous investment and technological innovation, has contributed to dramatic environmental improvements in the United States over the last 50 years. The hydrofluorocarbon phasedown rule was one such example of this cooperation where the business community supported the rule as a cost-effective way of reducing greenhouse gas emissions while maintaining U.S. competitiveness in world markets. Continued collaboration between the public and private sector is the best way to ensure continued environmental progress in a manner that enhances economic growth and avoids undue burdens on state and local economies.

The breadth and volume of major rulemakings promulgated by OAR make it one of the most important and influential arms of the federal government. In fact, during Mr. Goffman's tenure, the agency has issued some of the federal government's most ambitious and costly regulations. Based on EPA's own estimates, the regulatory costs of ten of the largest OAR rulemakings issued over the last 24 months equal nearly \$500 billion dollars. For perspective, those costs are larger than the third quarter 2022 gross domestic product for each of 36 different states including, among others, Alaska, Arizona, Arkansas, Delaware, Maryland, Mississippi, Nebraska, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Vermont, West Virginia, and Wyoming.

Moreover, according to the EPA's most recent regulatory agenda, OAR intends to propose or finalize 75 air regulations impacting a broad range of economic sectors over the next year, making it incumbent on Congress and EPA leadership to work cooperatively to understand and address the potential economic implications of these regulations. For these reasons, we urge the Committee to carefully consider the following specific pieces of the agency's regulatory agenda.

Oil and Gas Methane Regulations

The Chamber has called for EPA to pursue direct regulation of methane emissions to continue reducing the emissions intensity of energy production and provide long-term regulatory certainty for the upstream and midstream segments of the oil and gas sector. As EPA moves to finalize this regulation, it must be done in a collaborative manner that recognizes the need for a proper balance of key economic, legal, and policy considerations. Natural gas has been one of the primary driving forces behind emissions reductions achieved in the last decade and we must continue to drive down methane emissions. Continued investment in technologies would achieve this goal, but regulations should support innovation, rather than limit compliance options to certain technologies or create an environment that greatly increases liability that could shutter needed production altogether. Because the methane emissions intensity of the U.S. oil and gas sector is among the lowest in the world, these regulations must be promulgated in a manner that allows for continued clean domestic energy production and enhanced technological innovation, while following the appropriate process under the Clean Air Act.

Particulate Matter National Ambient Air Quality Standards

The agency's proposed rule for the particulate matter National Ambient Air Quality (NAAQS) standards contemplates lowering that standard by more than 30 percent, raising important questions regarding the cost, technological feasibility, and the impact of the NAAQS on a broad range of sectors, including agriculture, transportation, energy, manufacturing, and more. Thanks to private investment, technological advances, and cooperative efforts among states, businesses, and the federal government, America's air is cleaner than ever. As a result, the vast majority, consisting of over 84 percent, of particulate matter emissions now come from non-point sources such as wildfires, construction, and road dust—factors that are extremely difficult for individual regions and states to control. Compounding this concern is the fact that the agency has not identified all necessary control pathways to meet lower standards, meaning the proposal underestimates regulatory costs and may not be economically feasible to implement. In summary, EPA should repropose the rulemaking and consider maintaining the current PM NAAQS levels to avoid major negative implications for business investment and the ability to permit new industrial facilities that support critical services and domestic employment.

Ozone National Ambient Air Quality Standards

Similar concerns arise for the ozone NAAQS, where the agency has also chosen to reopen and consider tightening standards that were reviewed less than a year earlier and were then found to protect public health at their current level. Stricter standards added on top of the existing 2008 and 2015 standards have the potential to layer on duplicative and costly implementation requirements for businesses. For regions that are working toward complying with existing standards, new standards would translate to millions of dollars in compliance costs for many manufacturers that would likely be passed on to consumers through higher energy costs, goods, and services. The last time standards were tightened in 2015, EPA was unable to identify the technological controls needed for compliance. Given the lack of feasible control options just a few years ago, even tighter standards are likely to further increase business uncertainty and could drive the closure of existing facilities.

Ozone Transport Federal Implementation Plan Rule

On April 6, 2022, EPA proposed a discretionary rule that would cost \$26 billion while simultaneously disapproving 19 state plans for compliance with the existing ambient ozone NAAQS. The proposal would significantly expand the coverage of the existing program to cover more than half the country, include industrial sources for the first time, and impose very short and tight timelines on electric generator units. The averaging, banking, or trading provisions for industrial sources, a staple of cost-effective regulatory policy, is stunningly absent. Additionally, four regional transmission organizations responsible for ensuring the electric power grid can meet demand have warned that EPA's proposal threatens grid reliability by forcing the closure of critical electric generation capacity.

Other Rulemakings Affecting Energy and Industrial Facilities

The air office is also expected to finalize or has recently finalized various regulations on the energy sector and elsewhere that are likely to add to the rising cost of energy and commodities. These include facility risk management requirements for refiners and other industries despite duplicative OSHA regulations, new rules for gasoline storage terminals, the resetting of the Renewable Fuel Standard, and standards that could have far-reaching impacts across the electric power sector.

The reconsideration of Mr. Goffman's nomination presents an opportunity for the Committee to scrutinize EPA's agenda. EPA's mission is critical to the United States, but the agency's regulatory agenda could threaten the important balance between environmental progress, economic well-being, and energy reliability. The Chamber believes that we can achieve climate and environmental solutions while increasing domestic energy production, promoting global energy security, and addressing supply shortages at home and abroad. We encourage the Committee to ensure that EPA maintains its statutory focus and appropriately considers the far-reaching effects of its actions on the entire economy, especially during this period of persistently high inflation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil L. Bradley", with a large, stylized flourish at the end.

Neil L. Bradley
Executive Vice President, Chief Policy Officer,
and Head of Strategic Advocacy
U.S. Chamber of Commerce

cc: Members of the Senate Committee on Environment and Public Works