



Statement of the U.S. Chamber of Commerce

FOR: STATEMENT FOR THE RECORD ON THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL ON THE "IMPLEMENTATION OF THE 2015 NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE: NONATTAINMENT AREA CLASSIFICATIONS AND STATE IMPLEMENTATION PLAN REQUIREMENTS"

TO: U.S. ENVIRONMENTAL PROTECTION AGENCY

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The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on issues are developed by Chamber members serving on committees, subcommittees, councils, and task forces. Nearly 1,900 businesspeople participate in this process.

Statement Prepared for the
U.S. Environmental Protection Agency Public Hearing
Washington, D.C.
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The U.S. Environmental Protection Agency's Proposal on the "Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements"

Mary K. Martin
U.S. Chamber of Commerce

Good morning. My name is Mary Martin and I am here on behalf of the U.S. Chamber of Commerce. The Chamber is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber has concerns about the EPA's proposal on the implementation of the 2015 National Ambient Air Quality Standards (NAAQS) for ozone, including nonattainment area classifications and state implementation plan requirements, because of the potentially adverse economic and employment impacts that could result, as well as the added burdens on states.

States and localities, along with business and industry, have been working hard to improve the nation's air quality for many years. Indeed, ozone levels have decreased 33% since 1980, 22% since 1990, and 17% since 2000. Those levels will continue to decline as states implement the 2008 ozone standards. EPA itself projects that most of the country will meet the 2015 ozone standard of 70 parts per billion (ppb) by 2025 simply by implementing existing air standards, including the 2008 ozone standards.

Currently, states are faced with implementing the 2008 ozone standards, as well as the 2015 ozone standards. Much of this overlap is attributable to the EPA's own two-year delay in implementing the 2008 ozone standards while it reconsidered them. Although those standards remained unchanged, the delay resulted in states failing to receive the corresponding implementation guidance until 2015, seven years after the issuance of the standards. Requiring states now to implement both standards simultaneously is a waste of resources and overly burdensome. It also may result in some state and local areas facing adverse impacts in terms of stymied economic development and lost job creation.

Consequently, the Chamber supports certain potential legislative fixes that would address these implementation problems, while still achieving a balance between environmental quality and economic prosperity. Specifically, the deadlines for finalizing the designations for the 2015 ozone standards should be extended until 2025. This would allow for the sensible and efficient alignment of the implementation deadlines for the 2015 and 2008 ozone standards. States would have time to implement the 2008 ozone standards first, while still improving air quality. Additionally, the Chamber supports legislative language requiring that the 2015 ozone standards would not apply to new air permits completed before final nonattainment designations are made for the 2015 ozone standards. Until then, the 2008 ozone standards would apply.

The business community maintains that a legislative approach would be the most effective way to address these implementation problems with the 2008 and 2015 ozone standards; and it would allow for the immediate relief needed by businesses, states, and

localities with respect to the 2015 ozone standards. Notwithstanding that position, the Chamber has reviewed the proposal at issue here today, including the EPA's request for comment on two options regarding the transition from the 2008 ozone standards to the 2015 ozone standards. While both options raise varying degrees of concern, the Chamber contends that the preferred option (with some refinements and clarification) is option 1, under which the 2008 ozone NAAQS would be revoked one year after finalization of the ozone designations, followed by the application of anti-backsliding provisions. Among the requested refinements and clarifications to option 1 are the following: (1) the revocation should occur immediately upon the finalization of the designations; (2) the anti-backsliding protections should only be required for areas that remain in nonattainment with the revoked 2008 ozone standards; and (3) the anti-backsliding protections that are required to remain in place after the revocation of the 2008 ozone standards should be limited to "controls."

While there are other concerns with the EPA's ozone implementation proposal, the Chamber highlights in particular its opposition to EPA's characterization of section 179(b) – the international transport provision. Specifically, the proposal suggests that the Agency will limit its consideration of international transport under that section to only those areas bordering Mexico and Canada. This characterization is inconsistent with the plain language of the Clean Air Act, as well as EPA's previous interpretation of the applicable language. Section 179(b) provides for the consideration of the impacts of international transport in non-border states, as well as border states. Any suggestion in the proposal to the contrary should be rejected and withdrawn.

More generally, the Chamber has long implored the EPA to consider international emissions in its regulation of air pollutants. In fact, in 2006, the Chamber petitioned the EPA for a rule implementing Clean Air Act Section 179B, which requires the agency to protect U.S. states and regulated entities from suffering regulatory and economic burdens due to foreign emissions. Specifically, Section 179B eases nonattainment penalties on states able to show that they would be in attainment “but for” emissions emanating outside of the United States. Despite these efforts, the impacts of international emissions on ozone levels in the United States continue essentially to be a non-factor in the imposition of ozone standards. This is a critical flaw in the review, setting and implementation of the ozone NAAQS because international emissions have added to, and increasingly will add to, domestic ozone levels, causing areas in the U.S. to be in non-compliance.

In conclusion, we, the regulated community, recognize and appreciate the fact that when it comes to implementing federal environmental regulations, states are carrying such a huge burden and doing so with shrinking resources. Indeed, that burden has only grown as the EPA has issued more complex and costly regulations, such as the 2015 ozone standards. All of this amounts to a sobering conclusion – states are being asked to do more and more with less and less when it comes to implementing federal environmental programs and policies. And worse yet, EPA keeps moving the goal posts on states by revising air quality standards, like the ozone NAAQS, before the current standard has been implemented fully.

Consequently, the Chamber supports legislative fixes that will harmonize the implementation deadlines for the 2008 and 2015 ozone standards. Otherwise, states and

localities may have to expend time and resources unnecessarily trying to implement two ozone standards simultaneously; and state and local areas may be faced with adverse impacts, such as stymied economic development, lost investment, and difficulty in creating jobs. As the nation's leading business group, the Chamber impresses upon the Agency the fact that the likely economic fall-out from these impacts could be particularly harmful for states, local communities, and the business community.

Thank you for your time and consideration today.