

Statement of Environment Subcommittee Chairman Chris Stewart (R-Utah) Hearing on “Background Check: Achievability of New Ozone Standards”

Chairman Stewart: Good morning and welcome to the Environment Subcommittee’s hearing entitled “Background Check: Achievability of New Ozone Standards.”

I’d like to thank our excellent witnesses for being here today. We have a superb panel of experts, including the head of my state’s world-class Department of Environmental Quality, to tell us about recent science related to background ozone levels and how these developments should inform EPA’s upcoming revisions to its National Ambient Air Quality Standards, or NAAQS, for ozone.

Recent studies suggest that EPA may be underestimating multiple sources of background ozone, especially in the Western United States. Failure to acknowledge these uncontrollable concentrations could lead to EPA setting a new ozone standard next year that is at or near background levels, with catastrophic economic impacts for large swaths of the country. As this slide shows [SLIDE], and this slide was created from EPA data, most of the nation would be non-compliant with the new EPA standard. More discouraging, many of these locations would find it impossible to get in compliance because of naturally occurring ozone, or emissions that are imported from other locations around the nation or around the globe. In fact, EPA data suggests that areas in virtually every state would violate these standards if the Agency went lower than the current limit of 75 parts per billion. The result leaves little room for states like Utah to demonstrate compliance with the Clean Air Act, and the consequences include draconian reduction requirements, severe economic sanctions, threats to highway funding, and construction bans.

It’s also important to recognize that an unachievable standard would result in little actual environmental improvement. Over the last 30 years, the emissions of all precursors to ground-level ozone have dropped more than 50 percent, and States have not even begun to implement the tighter 2008 ozone standards.

The lower ozone standard of 60 parts per billion, which is currently being discussed by EPA, would be incredibly expensive. In fact, even the EPA’s conservative cost estimate of \$90 billion a year would make this proposed rule the most expensive regulation ever considered. But is this a record to be proud of? And it’s potentially much worse, for outside analyses suggested the real cost of this proposed regulation is closer to one trillion dollars in annual attainment costs and reduced gross domestic product. Recognizing the significant negative economic consequences of this proposed action, in 2011, the President showed restraint by withdrawing the proposal, citing “the importance of reducing regulatory burdens.”

It is early in this standard-setting process, but once again there are troubling signs. The Agency’s Clean Air Scientific Advisory Committee, which advises the Administrator on NAAQS, has already flagged that the EPA “fails to provide a... definition of ozone background” or to “discuss the role of background in developing options” for the standards in its initial scientific documents.

EPA has also signaled an unprecedented break with past practice in the Clean Air Act process by attempting to disregard background levels in evaluating health risks – Essentially trying to load the dice to generate large regulatory benefits by claiming that a new standard would address ozone that cannot be controlled. One of the Agency’s own science advisors has called this shift a misinterpretation that “invites litigation against the Administrator and the Agency.”

It is critical that these advisors carry out their obligation under the Clean Air Act to advise EPA on the “relative contribution to [ozone] concentrations of natural as well as” human activity and to inform the Administrator about “any adverse public health, welfare, social, economic, or energy effects” from these new ozone standards.

It is very important for these scientists to focus on their role as independent peer reviewers. But the reality that I see is concerning: For example, among the 28 panelists reviewing EPA’s scientific documents on ozone, 22 of them are cited by EPA in the Agency’s Integrated Science Assessment and they are referenced more than a thousand times in a document they are being asked to critically examine.

Our witnesses will testify today about new modeling and monitoring results that show that atmospheric events like stratospheric intrusions, transported emissions from Asia, and other sources could make new ozone standards unachievable. As we will hear, these results are confirmed by EPA’s monitors in rural areas and isolated National Parks.

Let me be clear: if EPA lowers its standard to 60 parts per billion, there are places in this country that could not meet it even if they eliminated all human emissions. An air quality standard that cannot be met in Yellowstone, Canyonlands, Zion, or the Grand Canyon is divorced from reality.

EPA claims that there are flexibilities within Clean Air Act implementation that could resolve these concerns about compliance due to exceptional events or international emissions. However, the Agency’s track record on approving state applications under these provisions leaves little room for comfort.

I look forward to discussing these absolutely critical issues with our witnesses today.

I now recognize the Ranking Member Ms Bonamici, for her opening statement.

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