

Before the United States House Committee on Science, Space, and Technology

*EPA's 2015 Ozone Standard: Concerns Over Science and Implementation*

Testimony of Elena Craft, Ph.D.

Senior Scientist

Environmental Defense Fund

October 22, 2015

Chairman Smith, Ranking Member Johnson and Members of the Committee, thank you for the opportunity to testify about the U.S. Environmental Protection Agency's revision to the nation's health-based ambient air quality standard for ground-level ozone.

My name is Elena Craft. I serve as senior scientist at Environmental Defense Fund, a national non-partisan science-based environmental organization, where I manage a team working to identify strategies and opportunities to reduce harmful air pollution such as ozone from pollution hotspot areas. EDF is a national environmental organization with over one million members that links science, economics, law, and private-sector partnerships to solve our most serious environmental challenges. In addition, I have an adjunct appointment at the University of Texas Health Sciences Center School of Public Health in Houston.

EDF and its members are deeply concerned about harmful air pollution, including ground-level ozone, and I greatly appreciate the opportunity to testify about the urgent need for strengthened ozone standards to protect human health and the environment.

**I. The Clean Air Act: A Bi-partisan Triumph for Public Health, the Environment, and Economy**

The Clean Air Act is a bedrock public health statute that has provided for extraordinary, bipartisan progress in protecting Americans' health and the environment for over 40 years. Senator John Sherman Cooper, a Republican from Kentucky, captured the spirit of bipartisan cooperation that led to the United States Senate's historic and unanimous adoption of the modern Clean Air Act in 1970:

We worked together. We disagreed. We worried about many provisions of the bill. At last, however, we joined unanimously in recommending and sponsoring this bill, believing that our approach was one that could make progress toward solution of the problem of air pollution.<sup>1</sup>

The unanimous vision forged into law by the United States Senate has secured healthier air for millions of Americans. The net benefits of the Clean Air Act from 1970 to 1990 are valued at

---

<sup>1</sup> 116 CONG. REC. S32,917 (daily ed. Sept. 21, 1970) (statement of Sen. Cooper).

over \$21 trillion.<sup>2</sup> By 2020, the Environmental Protection Agency (“EPA”) estimates the 1990 Clean Air Act Amendments will prevent a projected 230,000 deaths; 2.4 million asthma attacks; 200,000 heart attacks; and 5.4 million lost school days,<sup>3</sup> as set out in the Table immediately below. EPA also found that these vital health protections would provide \$2 trillion in monetized benefits.<sup>4</sup> Additionally, EPA projects a net overall improvement in economic growth due to the benefits of cleaner air.<sup>5</sup>

The 1990 Clean Air Act Amendments prevent:

	Year 2010 (cases)	Year 2020 (cases)
Adult Mortality - particles	160,000	230,000
Infant Mortality - particles	230	280
Mortality - ozone	4,300	7,100
Chronic Bronchitis	54,000	75,000
Acute Myocardial Infarction	130,000	200,000
Asthma Exacerbation	1,700,000	2,400,000
Emergency Room Visits	86,000	120,000
School Loss Days	3,200,000	5,400,000
Lost Work Days	13,000,000	17,000,000

*This chart shows the health benefits of the Clean Air Act programs that reduce levels of fine particles and Ozone.*

Source: EPA<sup>6</sup>

## **II. The Clean Air Act’s Two-Step Process: Establishing and Implementing National Health-Based Ambient Air Quality Standards**

In 1970, Congress established an effective framework in the fight against air pollution. Congress commanded that the national ambient air quality standards (“NAAQS”) be based on public health considerations alone. Then, economics are thoroughly considered in developing the air pollution control strategies to achieve the health standards. So, the law is sharply focused on

<sup>2</sup> U.S. Environmental Protection Agency, *The Benefits and Costs of the Clean Air Act, 1970 to 1990*, at 53 (Oct. 1997), available at <http://www.epa.gov/cleanairactbenefits/copy.html>. Estimates of benefits, in 1990 dollars, range from \$5.6 to \$49.4 trillion, with a central estimate of \$22.2 trillion. *Id.*

<sup>3</sup> U.S. Environmental Protection Agency, *The Benefits and Costs of the Clean Air Act from 1990 to 2020*, at 5-25, tbl. 5-6 (Apr. 2011), available at [http://www.epa.gov/cleanairactbenefits/feb11/fullreport\\_rev\\_a.pdf](http://www.epa.gov/cleanairactbenefits/feb11/fullreport_rev_a.pdf).

<sup>4</sup> *Id.* at 7-3.

<sup>5</sup> U.S. Environmental Protection Agency, Summary Report, *The Benefits and Costs of the Clean Air Act from 1990 to 2020*, at 3, available at <http://www.epa.gov/cleanairactbenefits/feb11/summaryreport.pdf>.

<sup>6</sup> U.S. Environmental Protection Agency, *Benefits and Costs of the Clean Air Act Amendments of 1990*, Fact Sheet, available at <http://www.epa.gov/cleanairactbenefits/feb11/factsheet.pdf>.

ensuring the nation's health-standards are established solely on the basis of public health, and this same law is broadly encompassing in considering economics when federal, state, and local officials determine how to cost-effectively achieve the health standards.

### ***Protecting Public Health***

Some have long protested this carefully calibrated dual system. Some have argued that this two-step inquiry should be conflated rather than distinct, that the nation's health standards should be based on economics and then economics should likewise infuse the policies to achieve the standards. This argument has been thoroughly presented and resoundingly rejected over the past 40-plus years.

This question was answered by a unanimous Senate in 1970. The language crafted by Congress in 1970 is straight forward; its meaning is plain. The Administrator is instructed to establish standards that "are requisite to protect the public health" with "an adequate margin of safety."<sup>7</sup> The statute thus provides for the health-based standards to be based exclusively on public health and to be precautionary in safeguarding against adverse health effects.

This question has also been consistently answered by the decisions of prior EPA Administrators and numerous judicial decisions of the federal court of appeals in Washington, D.C.<sup>8</sup>

Ultimately, this question was emphatically answered by a unanimous Supreme Court. Justice Antonin Scalia, writing for the high Court, explained that the text of the Clean Air Act is clear, notwithstanding the copious arguments of many lawyers: "

Were it not for the hundreds of pages of briefing respondents have submitted on the issue, one would have thought it fairly clear that this text does not permit the EPA to consider costs in setting the standards.<sup>9</sup>

Justice Scalia then set forth the inquiry the Administrator must make in establishing the nation's health-based air quality standards that is thoroughly anchored in protecting public health:

The EPA, "based on" the information about health effects contained in the technical "criteria" documents compiled under § 108(a)(2), 42 U.S.C. § 7408(a)(2), is to identify the maximum airborne concentration of a pollutant that the public health can tolerate, decrease the concentration to provide an "adequate" margin of safety, and set the standard at that level. Nowhere are the costs of achieving such a standard made part of that initial calculation.<sup>10</sup>

---

<sup>7</sup> Clean Air Act § 109(b)(1), 42 U.S.C. § 7409(b)(1).

<sup>8</sup> See, e.g., *Am. Lung Ass'n v. EPA*, 134 F.3d 388 (D.C. Cir. 1998); *Natural Res. Def. Council v. Adm'r, EPA*, 902 F.2d 962 (D.C. Cir. 1990), vacated in part on other grounds, 921 F.2d 326 (D.C. Cir. 1991); *Am. Petroleum Inst. v. Costle*, 665 F.2d 1176 (D.C. Cir. 1981); *Lead Indus. Ass'n, Inc. v. EPA*, 647 F.2d 1130 (D.C. Cir. 1980).

<sup>9</sup> *Whitman v. Am. Trucking Ass'ns, Inc.*, 531 U.S. 457, 465 (2001).

<sup>10</sup> *Id.*

### *Considering Costs and Deploying Cost-Effective Solutions*

After the health-based standards are established, the Clean Air Act provides a prominent role for consideration of costs in national, state, and local decisions about the pollution control strategies deployed to achieve the health standards. The statute provides for the consideration of costs in setting emission limits for cars, SUVs, trucks, buses, construction equipment, aircraft, fuels, power plants, and industrial facilities.<sup>11</sup>

States and local governments, in turn, are distinctly responsible for designing the air quality management plans for their communities and entrusted with determining how the clean up burden is allocated to restore healthy air. Justice Scalia succinctly explained that “[i]t is to the States that the Act assigns initial and primary responsibility for deciding what emissions reductions will be required from which sources.”<sup>12</sup>

### **III. EPA’s Revised Ozone Standard is a Step in the Right Direction but Could Achieve Even Greater Health Protection**

On October 1, EPA established a revised ozone standard of 70 parts per billion (“ppb”), improving America’s national air quality standard for ground-level ozone. The standard is expected to prevent up to 660 premature deaths, 230,000 asthma attacks, and 160,000 lost school days across the nation in 2025, excluding California. EPA estimates the benefits at this level of protection provide up to \$5.9 billion in monetized benefits, greatly outweighing the costs of implementation.<sup>13</sup>

Scientific evidence overwhelmingly demonstrates that the previous 75 ppb standard was not requisite to protect human health with an adequate margin of safety, as required by the Clean Air Act.<sup>14</sup>

### ***An Extensive Body of Scientific Evidence Demonstrates the Harms Associated with Ozone Pollution***

Since 2008, there have been more than 1,000 new studies that demonstrate the health and environmental harms of ozone.<sup>15</sup> In particular, EPA has concluded:

---

<sup>11</sup> 42 U.S.C. §§ 7521(a), 7547(a), 7545, 7541, and 7411(a).

<sup>12</sup> *Whitman*, 531 U.S. at 470.

<sup>13</sup> U.S. Environmental Protection Agency, By the Numbers fact sheet (October 2015), <http://www3.epa.gov/airquality/ozonepollution/pdfs/20151001numbersfs.pdf>.

<sup>14</sup> Letter from Christopher Frey PhD to Administrator McCarthy, *CASAC Review of the EPA’s Second Draft Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards*, at ii (June 26, 2014), available at [http://yosemite.epa.gov/sab/sabproduct.nsf/5EFA320CCAD326E885257D030071531C/\\$File/EPA-CASAC-14-004+unsigned.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/5EFA320CCAD326E885257D030071531C/$File/EPA-CASAC-14-004+unsigned.pdf) (hereinafter “CASAC Letter”).

<sup>15</sup> U.S. Environmental Protection Agency, Fact Sheet, OVERVIEW OF EPA’S UPDATES TO THE AIR QUALITY STANDARDS

Scientific evidence shows that ozone can cause a number of harmful effects on the respiratory system, including difficulty breathing and inflammation of the airways. For people with lung diseases such as asthma and COPD (chronic obstructive pulmonary disease), these effects can aggravate their diseases, leading to increased medication use, emergency room visits and hospital admissions.

Evidence also indicates that long-term exposure to ozone is likely to be one of many causes of asthma development. In addition, studies show that ozone exposure is likely to cause premature death.<sup>16</sup>

Scientific and technical analyses—reflected in EPA’s final rule—underscore that the risk of these harmful health effects is even more pronounced for people with asthma and other respiratory diseases, children, older adults, people who work or are active outdoors. An estimated 23 million people have asthma in the U.S., including almost 6.1 million children.<sup>17</sup> Asthma disproportionately impacts communities of color and lower-income communities.<sup>18</sup> Strengthened ozone health standards will help improve air quality in these and all communities across the country.

Children, in particular, are considered the most at risk group because they breathe more air per unit of body weight, are more active outdoors, are more likely to have asthma than adults, and are still developing their lungs and other organs. In fact, EPA’s Children’s Health Protection Advisory Committee—a body of external experts that provide the Administrator with recommendations concerning children’s health—recommends a substantially stronger standard to protect the health of children. CHPAC finds that “[c]hildren suffer a disproportionate burden of ozone-related health impacts due to critical developmental periods of lung growth in childhood and adolescence that can result in permanent disability.”<sup>19</sup>

***Scientific Evidence Clearly Demonstrates that Strong Ozone Standards are Required to Protect Public Health***

---

FOR GROUND-LEVEL OZONE, <http://www3.epa.gov/ozonepollution/pdfs/20151001overviewfs.pdf> (hereinafter “Ozone Standard Fact Sheet”); see also U.S. Environmental Protection Agency, Integrated Science Assessment for Ozone and Related Photochemical Oxidants, Final Report (Feb. 2013), available at <http://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=247492#Download>.

<sup>16</sup>Ozone Standard Fact Sheet, *supra* note 15.

<sup>17</sup> Ozone Standard Fact Sheet, *supra* note 15.

<sup>18</sup> *Id.*

<sup>19</sup> Letter from Sheela Sathyanarayana MD MPH, Chair, Children’s Health Protection Advisory Committee to Christopher Frey PhD, CASAC Review of the Health Risk and Exposure Assessment for Ozone and Policy Assessment for the Review of the Ozone NAAQS: Second External Review Drafts, (May 19, 2014), available at [http://yosemite.epa.gov/sab/sabproduct.nsf/7F79D27B503CB28385257CDE00546CB3/\\$File/CHPAC+May+2014+Letter+&+Attached+2007+Letters.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/7F79D27B503CB28385257CDE00546CB3/$File/CHPAC+May+2014+Letter+&+Attached+2007+Letters.pdf).

The recommendations of the statutorily established and independent scientific advisory committee—the Clean Air Scientific Advisory Committee (“CASAC”)—underscored the need, as determined by the latest scientific evidence, to strengthen the ground-level ozone standard.

In the 1977 Clean Air Act Amendments, Congress established the CASAC to review the scientific and technical basis for the NAAQS and to provide the Administrator with independent advice concerning the establishment, review, and revisions of those standards. Section 109(d) of the Clean Air Act underscores CASAC’s independent scientific charge and broad-based scientific and technical expertise: “[t]he Administrator shall appoint an independent scientific review committee composed of seven members including at least one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.”<sup>20</sup> Among other things, the statute requires that CASAC “recommend to the Administrator any new national ambient air quality standards and revisions of existing criteria and standards as may be appropriate under section 108 [42 U.S.C. § 7408] of this title and subsection (b) of this section.”<sup>21</sup> Consistent with these statutory requirements, the CASAC ozone review panel is currently comprised of scientific experts from numerous universities as well as other independent experts, including a representative from the Electric Power Research Institute.<sup>22</sup>

CASAC has reviewed and provided analysis and feedback on EPA’s scientific and policy assessments related to the agency’s revisions of the 2008 ozone standards. In a letter, CASAC emphasized that the latest scientific evidence underscores the inadequacy of the current standard.<sup>23</sup> Specifically, CASAC found “scientific justification that current evidence and the results of the exposure and risk assessment call into question the adequacy of the current standard” and that there is “clear scientific support for the need to revise the standard.”<sup>24</sup>

Though CASAC recommended a range of 60–70 ppb, the Committee went on to emphasize the inadequacy of a standard at the upper end of that range: “[a]t 70 ppb, there is substantial scientific evidence of adverse effects as detailed in the charge question responses, including decrease in lung function, increase in respiratory symptoms, and increase in airway inflammation.”<sup>25</sup> Accordingly, CASAC recommended that the Administrator “set the level of the standard lower than 70 ppb within a range down to 60 ppb, taking into account your judgment regarding the desired margin of safety to protect public health, and taking into account that lower levels will provide incrementally greater margins of safety.”<sup>26</sup>

---

<sup>20</sup> 42 U.S.C. § 7409(d)(2)(A).

<sup>21</sup> *Id.* § 7409(d)(2)(B).

<sup>22</sup> See EPA Clean Air Scientific Advisory Committee (CASAC), *Ozone Review Panel*, <http://yosemite.epa.gov/sab/sabpeople.nsf/WebExternalCommitteeRosters?OpenView&committee=CASAC&secondname=Clean%20Air%20Scientific%20Advisory%20Committee> (last visited Oct. 15, 2015).

<sup>23</sup> CASAC Letter, *supra* note 14, at ii.

<sup>24</sup> *Id.* at ii.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at ii-iii.

In reaching this conclusion, CASAC evaluated extensive scientific evidence, including clinical studies, epidemiological studies, and animal toxicology studies—summarized in EPA’s Integrated Scientific Assessment— along with findings from exposure and risk assessments included in EPA’s Health and Risk Exposure Assessment.

#### **IV. Strong Ozone Standards are Achievable and Cost-Effective**

Many highly cost-effective, commonsense clean air measures are available to help secure pollution reductions needed to achieve the improved air quality standards. The 40-year history of the Clean Air Act shows that the nation’s public health standards are achievable, through available technologies and innovation by states and businesses. National average ozone concentrations have gone down 33% since 1980 and more than 90% of areas originally designated nonattainment for the 1997 ozone standards now meet those standards.<sup>27</sup> Moreover, our nation has often worked to achieve greater reductions than required, sooner, and at lower costs than estimated. Indeed, there are many clean air measures well underway that will help states, communities and families realize vital protections from ozone pollution.

#### ***Misplaced “Sky is Falling” Claims Provoke Polarization Over Clean Air Protections for America’s Communities and Families***

Some claim that adopting strong ozone standards will cause economic harm. Unfortunately, these “sky is falling” prognostications are not new. In 1997, during another debate over strengthened national public health standards, Senator Spencer Abraham (R-MI) was among those who claimed that the new standards would have serious economic impacts: “Dry cleaning establishments, hair salons, and other small businesses will not be able to absorb the increased costs imposed by these regulations,” the Senator said.<sup>28</sup>

In fact, our nation made enormous strides in protecting public health from air pollution through commonsense cost-effective solutions. This is consistent with the time tested history of the Clean Air Act. Between 1990 and 2020, a recent EPA report projects that the benefits of the Clean Air Act will outweigh costs by 30 to 1.<sup>29</sup>

In recent years, similar “sky is falling” claims have been made about clean air standards to control acid rain, cut mercury and other air toxics, reduce soot, and lower tailpipe emissions.

These “sky is falling” claims were recently prominent in the debate over EPA’s landmark mercury and air toxics standards for power plants. EPA Administrator Lisa Jackson signed the final Mercury and Air Toxics Standards in December 2011 at Children’s Hospital in Washington, D.C. Within months, major power companies that had been making “sky is

---

<sup>27</sup> U.S. Environmental Protection Agency, By the Numbers fact sheet (October 2015), <http://www3.epa.gov/airquality/ozonepollution/pdfs/20151001numbersfs.pdf>.

<sup>28</sup> 143 CONG. REC. S10813 (daily ed. Oct. 9, 1997) (statement of Sen. Abraham).

<sup>29</sup> U.S. Environmental Protection Agency, *The Benefits and Costs of the Clean Air Act from 1990 to 2020*, supra note 3.

falling” claims about the compliance costs during EPA’s development of these standards were touting to investors that compliance costs were plummeting:

- On July 20, **American Electric Power CEO Nicholas Akins** confirmed that the company’s projected costs have come down nearly 25% from what AEP originally projected. He added, “[W]e expect it to continue to be refined as we go forward.” In other words, costs will come down even further.<sup>30</sup>
- On May 15, **Southern Company CFO and Executive Vice President Arthur P. Beatty** stated that the amount the company projects for compliance costs “could be \$0.5 billion to \$1 billion less, because of the new flexibility that [the company has] found in the final rules of the MATS regulation.”<sup>31</sup>
- On August 8, **First Energy CEO Anthony Alexander** stated, “[W]e have significantly reduced our projected capital investment related to MATS compliance.”<sup>32</sup>

Based on recent earnings calls, American Electric Power Company’s range of cost estimates has fallen by a third to half, Southern Company’s cost estimates have declined by a third, and FirstEnergy’s costs have fallen approximately 77-85 percent.<sup>33</sup>

This is consistent with the history of the Clean Air Act. Initial projections are often higher than actual costs. EDF has evaluated industry cost projections for several past EPA rulemakings where projections were several times higher than actual costs.<sup>34</sup> Moreover, since 1970, our nation has reduced the six pollutants regulated under the national ambient air quality standards program by almost 70 percent while GDP has grown by nearly 240 percent as illustrated in the graph below.

---

<sup>30</sup> Nicholas Akins, American Electric Power Co., Inc. Q2 2012 Earnings Call Transcript (July 20, 2012), *available at* <http://seekingalpha.com/article/736561-american-electric-power-management-discusses-q2-2012-results-earnings-call-transcript?all=true&find=american%2Belectric%2Bpower%2BAEP%2B%2Bjuly%2B12%2C%2B2012>.

<sup>31</sup> Art Beattie, CFO of Southern Company, Deutsche Bank Clean Tech, Utilities and Power Conference Call Recording (May 15, 2012), *available at* <http://earningscast.com/SO/20120515>.

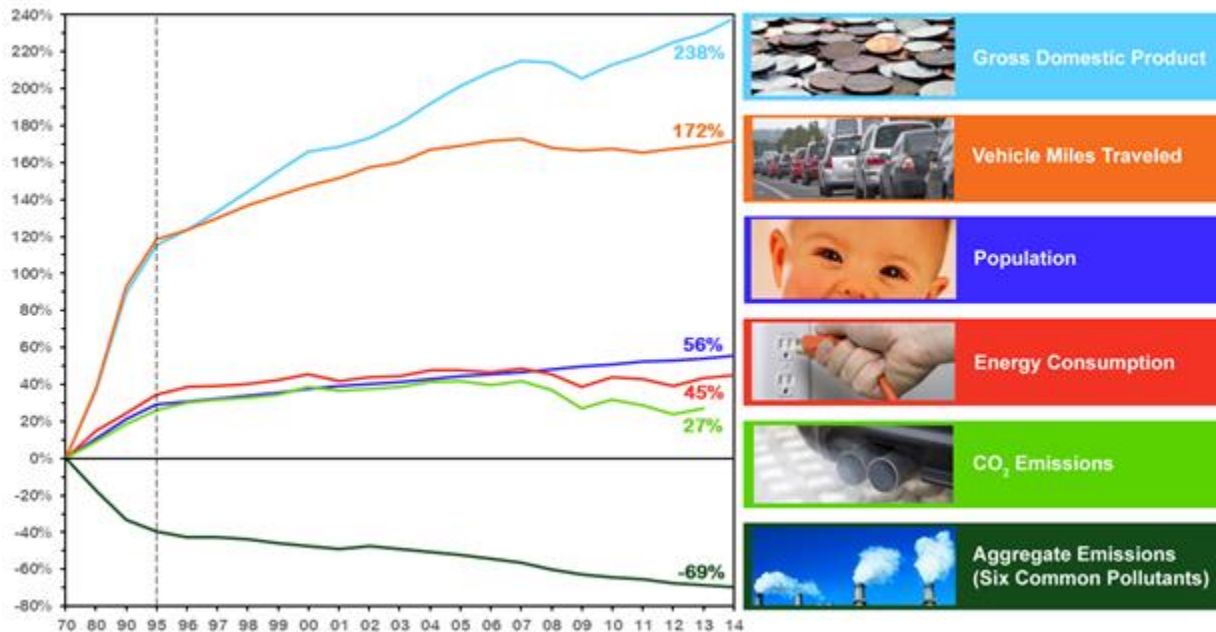
<sup>32</sup> Anthony Alexander, CEO, FirstEnergy, Q2 2012 Results, Earnings Call Transcript (Aug. 8, 2012), *available at* <http://seekingalpha.com/article/790061-firstenergys-ceo-discusses-q2-2012-results-earnings-call-transcript>.

<sup>33</sup> See Env'tl. Def. Fund, Blog, *Power Companies' Declining Estimates of Compliance Costs of the Mercury & Air Toxics Standards (MATS)*, [http://blogs.edf.org/climate411/files/2014/05/Declining-costs-of-MATS-compliance.pdf?\\_ga=1.102810441.834084056.1418406109](http://blogs.edf.org/climate411/files/2014/05/Declining-costs-of-MATS-compliance.pdf?_ga=1.102810441.834084056.1418406109).

<sup>34</sup> Environmental Defense Fund, 3 Times Industry has Missed on Cost Estimates, <https://www.edf.org/climate/3-times-industry-has-missed-cost-estimates>.



**Comparison of Growth Areas and Emissions, 1970-2014**



Source: U.S. EPA<sup>35</sup>

### ***Actions Already Underway Will Help Communities Meet Strengthened Ozone Standards***

Currently, 90 percent of areas designated nonattainment for the 1997 ozone health standards now meet those standards.<sup>36</sup> The U.S. has already taken steps over the past few years that help to reduce ozone smog pollution and help restore healthy air in a cost effective manner. Those protections include: the Tier 3 tailpipe standards, supported by the U.S. auto industry, which will slash smog-forming pollution from new cars beginning in model year 2017 and lower sulfur in gasoline which will reduce pollution from every car on the road (these standards are projected to reduce NOx emissions by about 260,000 tons in 2018 alone, or about 10% of emissions from on-highway vehicles),<sup>37</sup> recently finalized greenhouse gas and fuel standards for medium- and heavy-duty trucks; and, EPA’s Clean Power Plan, which will substantially reduce smog-forming pollutants from power plant smokestacks nationwide.

These are just a few of the existing and pending national emission standards that will secure substantial reductions and that EPA anticipates will help to achieve broad-based compliance with strengthened ozone air quality standards. Analysis of various clean air measures adopted or soon to be put in place indicates that our nation will reduce the precursors to smog by millions of tons, securing over two million tons of volatile organic compound reductions and over five million

<sup>35</sup> U.S. EPA, [http://www3.epa.gov/airtrends/images/y70\\_14.png](http://www3.epa.gov/airtrends/images/y70_14.png)

<sup>36</sup> U.S. Environmental Protection Agency, By the Numbers fact sheet (October 2015), <http://www3.epa.gov/airquality/ozonepollution/pdfs/20151001numbersfs.pdf>.

<sup>37</sup> U.S. Environmental Protection Agency, Tier 3 Gasoline Sulfur Standard’s Impact on Gasoline Refining, <http://www3.epa.gov/otaq/documents/tier3/420f14007.pdf>.

tons of nitrogen oxides reductions.<sup>38</sup> These emissions standards will help to secure the vast majority of reductions needed to meet a strong health-based standard for ozone.

#### V. **There is Broad Support to Strengthen the Health-Based National Ambient Air Quality Standards for Ground-Level Ozone**

Leading health and medical associations have strongly recommended that our nation strengthen the health-based standard for ground-level ozone to well below 75 ppb to protect public health. Groups including the American Lung Association, American Public Health Association, American Thoracic Society, Trust for America's Health, Asthma and Allergy Foundation of America, Health Care Without Harm, and National Association of County and City Health Officials recommended an 8-hour ozone standard lower than 75 ppb."<sup>39</sup> A strong ozone standard could prevent up to 1.8 million asthma attacks in children, 1.9 million school days missed, and 7,900 premature deaths nationwide every year.

Here are a few examples of the broad support and ample evidence of the need for stronger health-protective ozone standards:

“...Thousands of peer-reviewed medical studies show that breathing ozone pollution is dangerous to human health and the EPA review shows harm is occurring at levels far below what is currently considered ‘safe.’ ”

“This means too many Americans have been informed that the air in their community is safe to breathe based on the outdated standard. The science shows that information was wrong. Every parent in America has a right to know the truth about the air their children breathe.”

...

“For far too long, millions of Americans have been living with a weak and outdated standard.

- **Harold P. Wimmer, National President and CEO of the American Lung Association**<sup>40</sup>

“...“The body of scientific evidence supporting the health benefits of a lower ozone standard has grown substantially in the last few years,” said John R. Balmes, MD, a pulmonary critical care physician and chair of the ATS Environmental Health Policy Committee. “Ozone pollution has been linked to low birth weight, decreased lung function and other respiratory problems in infants and children, worse asthma control in both children and adults, and with cardiovascular disease and increased mortality in adults.”

---

<sup>38</sup> U.S. Environmental Protection Agency, Regulatory Impact Analysis, supra note 29, at tbl. 3-1.

<sup>39</sup> Letter from Janice Nolen, et al., to Christopher Frey PhD (May 19, 2014), *available at* [http://blogs.edf.org/climate411/files/2014/11/health\\_and\\_medical\\_org\\_letter\\_to\\_casac\\_on\\_o3\\_naaqs.pdf](http://blogs.edf.org/climate411/files/2014/11/health_and_medical_org_letter_to_casac_on_o3_naaqs.pdf).

<sup>40</sup> American Lung Association, Press Release, Lung Association Welcomes Obama Administration's Long Overdue Ozone Pollution Proposal, Calls for Greater Protection, (Nov. 26, 2014), *available at* <http://www.lung.org/pressroom/press-releases/healthy-air/statement-on-2014-ozone-regs.html>.

- **American Thoracic Society**<sup>41</sup>

“...Ozone, the main component of smog, is a dangerous air pollutant formed when emissions from vehicle tailpipes, power plants and factories pollutants including volatile organic compounds such as cancer-causing benzene and nitrogen oxides, combine with strong sunlight. Even at low levels, smog can aggravate asthma, cause and worsen respiratory illnesses, and cause lung damage for those who breathe it repeatedly. Ozone exposure results in excessive hospitalizations and emergency room visits and millions of lost school and work days. For the millions of Latinos who work outdoors in construction, landscaping and other fields, continued exposure can lead to serious health problems.”

- **Adrianna Quintero, Director of Voces Verdes**

“As local elected officials representing big cities and small towns, we want to express our strong support for the Environmental Protection Agency’s (EPA) work to update the ozone (or smog) standard. The current, George W. Bush-era standard of 75 parts per billion (ppb) has been widely acknowledged by the medical community as insufficient to protect public health. As mayors, we are on the front lines of protecting the safety and well-being of our constituents and this long-overdue update will reap tremendous benefits for our communities.”

- **Mayoral letter signed by 70 mayors across the nation** <sup>42</sup>

## **VI. Conclusion**

A rigorous and extensive body of science demonstrates that EPA’s previous national ambient air quality standard for ground-level ozone needed to be strengthened to protect public health. The Clean Air Act, forged on a bedrock foundation of bipartisan collaboration for our nation, instructs the EPA Administrator to take decisive and protective action against these health harms and to establish standards that are requisite to protect public health with an adequate margin of safety.

At the same time, our nation has commonsense and cost-effective solutions already moving forward that will help to achieve a more protective ozone standard and restore healthy air. These solutions include clean air measures, supported by the U.S. auto industry, that will dramatically reduce the smog-forming emissions from new cars beginning in model year 2017 and the landmark Clean Power Plan that will reduce a suite of health-harming emissions from power plants. Indeed, EPA, states and communities alike carefully consider costs in developing the solutions to restore healthy air, and the time tested history of the Clean Air Act is that our nation has in fact secured cleaner, healthier air at a fraction of the predicted costs.

---

<sup>41</sup> American Thoracic Society, ATSNNews, EPA Proposes Stricter Ozone Standard (Dec. 5, 2014), available at <http://news.thoracic.org/?p=5515>.

<sup>42</sup> <https://slcgreen.files.wordpress.com/2015/09/mayors-smog-letter-final-copy-9-21-2015.pdf>

The science and law, along with these innovative solutions, create a strong foundation for carrying out the Clean Air Act's founding bipartisan vision to establish national air quality standards that are protective of the health of our children and communities, and then to work together to find cost-effective, common sense solutions to meet the level of protection that science tells us is necessary to safeguard the health of our nation. This vibrant, bipartisan made-in-America law has stood the test of time—delivering a stronger, healthier, and more prosperous nation. If we continue to work together building from this legacy of bipartisan collaboration forged in law we will continue to chart a commonsense path forward in protecting the health of our children and communities, securing a stronger and more prosperous nation, and finding that the sky is clearing, not falling.