



VIA ELECTRONIC SUBMISSION

March 17, 2015

Administrator Gina McCarthy
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Docket ID EPA-HQ-OAR-2008-0699, Comments on EPA's Proposed Rulemaking on National Ambient Air Quality Standards for Ozone

Dear Administrator McCarthy:

Associated Builders and Contractors, Inc. (ABC) submits the following comments to the Environmental Protection Agency (EPA) in response to the above-referenced notice of proposed rulemaking published in the *Federal Register* on December 17, 2014, at 79 Fed. Reg. 75234.

About Associated Builders and Contractors, Inc.

ABC is a national construction industry trade association representing nearly 21,000 chapter members. ABC and its 70 chapters help members develop people, win work and deliver that work safely, ethically and profitably for the betterment of the communities in which they work. ABC member contractors employ workers whose training and experience span all of the 20-plus skilled trades that comprise the construction industry. Moreover, the vast majority of our contractor members are classified as small businesses. Our diverse membership is bound by a shared commitment to the merit shop philosophy in the construction industry. The philosophy is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open, competitive bidding based on safety, quality and value. This process assures that taxpayers and consumers will receive the most for their construction dollar.

ABC members know exceptional jobsite safety and health practices are inherently good for business. ABC understands the importance of common-sense regulations based on sound evidence and scientific analysis with appropriate consideration paid to implementation costs and input from employers.

ABC's Comments on EPA's Proposed Rule

On December 17, 2014, EPA issued a proposed rulemaking to revise the National Ambient Air Quality Standards (NAAQS) for ozone under the Clean Air Act (Act). According to the Act, the primary NAAQS must be set at a level requisite to protect the public health with an adequate margin of safety, and the secondary NAAQS must be set at a level requisite to protect the public welfare from any known or anticipated adverse effects. The current standards are based on the 2008 revision, in which EPA revised both the primary and secondary NAAQS for ozone. EPA established a standard for both primary and secondary as an 8-hour ozone concentration of 75 parts per billion (ppb). Under the 2014 proposal, EPA would retain the indicator, averaging time and form of the current 8-hour primary standard. However, the proposal would reduce the level of the current standard to a level within the range of 65 to 70 ppb. EPA

also asks for comments on retaining the current standard of 75 ppb and reducing it even lower to a rate of 60 ppb. In addition, EPA proposes to make the secondary standard the same as the revised primary standard.

State and local agencies are still in the process of preparing and submitting state implementation plans (SIPs) to EPA in order to meet the 2008 ozone standards. These current standards are behind schedule, due to EPA effectively suspending implementation from 2010-2012. In 2010, EPA proposed to lower the 2008 standards to a range of 60 to 70 ppb, without any new scientific evidence and ahead of the scheduled five-year review. After receiving an outpouring of comments from the public, EPA withdrew the proposal. Therefore, states and local agencies did not meet the three-year deadline for submitting infrastructure SIPs to EPA. Furthermore, EPA only finalized its implementation guidance of SIPs for areas that were designated as nonattainment on March 6, 2015. Regulated communities have committed significant resources, such as money and time, to meet the current ozone standards in preparing and implementing their SIPs. As states and local agencies make up lost ground in putting the current standards into effect, the nation can expect to see greater reductions in ground-level ozone. Any further reductions in the level of NAAQS would create additional burdens on those regulated communities still working toward attaining the current ozone standards.

As there has been limited new scientific information on the current standards and EPA cannot reasonably evaluate the effectiveness of the 2008 standards on public health and welfare, any reduction in the current standards would be arbitrary and capricious. In addition, EPA even acknowledges that the existing emission control technologies will not be enough to achieve the proposed ozone standards. Regulated communities would have to rely on “unknown controls” to reduce ambient ozone levels in order to achieve attainment. The proposal could push virtually the entire country into “nonattainment.” If finalized, EPA’s proposed stringent ozone standards could limit business expansion in nearly every populated region of the United States and impair the ability of U.S. companies to create new jobs. ABC strongly urges EPA to retain the current ozone standards when finalizing this proposal.

An area designated as nonattainment will have a negative impact on the economic growth and development of a community. Under EPA’s proposed rule, companies that plan to build a new facility or perform major modifications to certain existing facilities that result in increased ozone concentrations in, or near, a nonattainment area will be required to install the most effective emission reduction technology regardless of cost. Further, the proposal’s restrictive permitting requirements will increase costs and delays and likely deter companies from locating new facilities in a nonattainment area. EPA also mandates states to offset any ozone-forming emissions from new projects or projects undergoing major modifications by reducing emissions from other existing sources in a nonattainment area. A project will not move forward if a party is unwilling to provide offsets. This proposal will almost certainly lead to fewer construction projects being developed or built based on its proximity to the nonattainment area.

The nonattainment designation also has a profound impact on infrastructure development which is vital to economic growth and job creation. Beginning one year from the date of the nonattainment designation, federally-supported highway and transit projects cannot proceed in a nonattainment area unless the state can demonstrate that the project will cause no increase in ozone emissions.

This proposal will negatively impact the still-recovering construction industry by creating permitting delays, restrictions and increased costs on projects. The uncertainty of building in or near a nonattainment area will lead to fewer projects overall and negatively impact job creation in the construction industry. Another unintended consequence for the industry could be new restrictions on the types of construction

equipment that can be utilized. As a way for states to potentially achieve attainment, states may impose restrictions on equipment such as diesel engines or mobile sources.

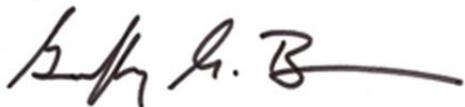
The economic threat of nonattainment is not limited to any particular region or industry. EPA's own compliance maps identify 558 counties across the United States where measured ozone would stand in immediate violation of a 65 ppb threshold.¹ According to analysis by the Baton Rouge Area Chamber, 18 of the 20 top performing metropolitan economies would be thrust into regulatory limbo under this scenario.² A recent study for the National Association of Manufacturers projects that a 65 ppb standard would be among the most expensive regulations in history, resulting in \$1.1 trillion in compliance costs and a \$140 billion annual drag on the Gross Domestic Product.³ Moreover, the NAM study indicates that such a rule would lead to 1.4 million fewer jobs while costing the average household an additional \$830 in energy expenses.

Emissions of ozone-forming emissions have been cut in half since 1980, leading to a 33 percent drop in ozone concentrations. EPA needs to fully understand the benefits of the 2008 standards in order to best allocate resources in a manner that strengthens both the economy and the environment.

For the reasons outlined above, we urge EPA to retain the current ozone standards when finalizing this proposal. In addition, ABC shares the concerns and recommendations filed to this docket by the U.S. Chamber of Commerce, the National Association of Manufacturers, and other Associations, and incorporates them into this letter by reference.

Thank you for the opportunity to submit comments on this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "G. Burr", with a long horizontal flourish extending to the right.

Geoffrey Burr
Vice President, Government Affairs

¹ EPA Ozone Maps, page 3 at <http://www.epa.gov/glo/pdfs/20141126-ozonemaps.pdf>.

² Baton Rouge Area Chamber, *BRAC Public Policy Commentary: Eighteen of Twenty Top-Performing Metro Economies at Risk from New Ozone Standards* (March 2015), at http://www.brac.org/brac/news_detail.asp?article=1947.

³ National Association of Manufacturers, *Economic Impacts of a 65 ppb National Ambient Air Quality Standard for Ozone* (February 2015), at [http://www.nam.org/Issues/Energy-and-Environment/Ozone/Economic-Impacts-of-a-65-ppb-NAAQS-for-Ozone-\(NERA\).pdf](http://www.nam.org/Issues/Energy-and-Environment/Ozone/Economic-Impacts-of-a-65-ppb-NAAQS-for-Ozone-(NERA).pdf).