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February 7, 2011

Dr. Holly Stallworth, Designated Federal Officer
EPA Science Advisory Board (1400R)
U.S Environmental Protection Agency
1300 Pennsylvania Avenue, N.W.
Washington, DC 20004

Subject: **Proposed Rule for National Ambient Air Quality Standards for Ozone; 75 Fed. Reg. 2938; January 19, 2010; Docket No. EPA-HQ-OAR-2005-0172**

The Rubber Manufacturers Association (RMA) is the national trade association representing every major domestic tire manufacturer including: Bridgestone Americas, Inc., Continental Tire the Americas, LLC; Cooper Tire & Rubber Company; The Goodyear Tire & Rubber Company; Michelin North America, Inc.; Pirelli North America; Toyo Tire (U.S.A.) Corporation and Yokohama Tire Corporation. RMA appreciates the opportunity to offer comments for the Clean Air Scientific Advisory Committee to consider on the proposed amendments to the primary and secondary National Ambient Air Quality Standards (“NAAQS”) for ground level ozone. 74 Fed. Reg. 64.

On March 22, 2010, RMA submitted comments on the proposed amendments to the primary and secondary NAAQS for ground level ozone. In these comments, we recommended that reconsidering the current ozone NAAQS less than two years after they were promulgated (tightening the 1997 standard), and without reviewing all newly available scientific data is inappropriate. We also suggested that the existing health science does not demonstrate that a new NAAQS standard for ground level ozone is justified. RMA believes these comments remain applicable in CASAC’s review of the Ozone NAAQS and resubmit them in their entirety.

RMA again thanks CASAC for the opportunity to provide comment for the committee to consider as it develops advice for EPA on the scientific and technical aspects of the Ozone NAAQS.

Respectfully Submitted,

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Environmental Counsel
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March 22, 2010

U.S. Environmental Protection Agency
Docket No. EPA-HQ-OAR-2005-0172
Mail Code 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Subject: Comments on the Proposed Rule for National Ambient Air Quality Standards for Ozone; 75 Fed. Reg. 2938; January 19, 2010; Docket No. EPA-HQ-OAR-2005-0172

The Rubber Manufacturers Association (RMA) is the national trade association representing about 80 companies that manufacture various rubber products. These member companies include every major domestic tire manufacturer including: Bridgestone Americas, Inc., Continental Tire the Americas, LLC; Cooper Tire & Rubber Company; The Goodyear Tire & Rubber Company; Michelin North America, Inc.; Pirelli North America; Toyo Tire (U.S.A.) Corporation and Yokohama Tire Corporation. RMA appreciates the opportunity to offer comments on the proposed amendments to the primary and secondary National Ambient Air Quality Standards (“NAAQS”) for ground level ozone. 74 Fed. Reg. 64. RMA members operate manufacturing plants and other facilities across the U.S. that emit nitrogen oxides (“NO_x”) and volatile organic compounds (“VOCs”), precursors to ozone, which are subject to regulation under the proposed Ozone NAAQS rule.

RMA supports regulations needed to avoid real health risks from ground-level ozone and other air pollution. The ozone NAAQS promulgated by the EPA in 2008 was intended to avoid such health risks. “Reconsidering” the current ozone NAAQS less than two years after they were promulgated (tightening the 1997 standards), and without reviewing all newly available scientific data is inappropriate. It short-circuits the five-year review cycle Congress established,

gives inappropriate significance to an advisory committee, skips over statutorily required procedures, and actually has an adverse effect on air quality by de-railing implementation of the current ozone NAAQS.

The Clean Air Act (“CAA”) directive that the primary NAAQS be set at the level “requisite” to protect public health with an “adequate” margin of safety means that the primary standard must be sufficient to protect public health but not more stringent than necessary to protect public health. See *Whitman v. Am. Trucking Associations*, 531 U.S. 457, 473 (2001). Both EPA and the courts have recognized that, although “the only concentration for ozone and PM that is utterly risk-free, in the sense of direct health impacts, is zero,” *American Trucking Associations v. EPA*, 175 F. 3d 1027, 1034 (DC Cir. 1999), the “CAA does not require the Administrator to establish a primary NAAQS at a zero-risk level,” 75 Fed. Reg. at 2940, citing *Lead Industries Association v. EPA*, 647 F.2d at 1156 n. 51. Rather, the “question is one of degree.” *American Trucking Associations*, 175 F. 3d at 1037.

In the proposed rule, EPA asserts that it can, based simply on a judgment now that EPA’s decision in 2008 about what level is “requisite” to protect public health was not protective enough, impose a rule that even EPA predicts could cost \$90 billion per year making it the single most burdensome rule EPA has adopted. It would be particularly inappropriate to impose such a heavy burden on Americans—especially at a time when the economy is in a recession and the recovery is uncertain—through an abbreviated procedure that fails to consider required factors, as discussed below.

I. RMA believes that EPA’s decision to not consider the latest scientific knowledge short cuts the process for revising the NAAQS established in the Clean Air Act.

In 2008, EPA finalized revisions to the NAAQS for ground level ozone, establishing an 8-hour standard of 0.075 ppm. 74 Fed. Reg. 64. A year and half after the 2008 ozone standards were finalized; the Agency announced its decision to reconsider the 2008 finalized NAAQS for ground level ozone. EPA’s decision to revise the NAAQS for ground level ozone short cuts the process for revising the NAAQS established in the CAA, and in the process the Administrator is not relying on the “latest scientific knowledge” regarding the public health and welfare as the statute requires. Instead, the Administrator is relying on the same air quality criteria that Administrator Johnson relied on when he issued the 2008 ground level ozone standards.

Administrator Johnson relied on air quality data that is dated February 2006; i.e., data that was collected more than four years ago. EPA has indicated in this rulemaking that “scientific and technical information developed since the 2006 Criteria Document will be considered in the next periodic review instead of this reconsideration rulemaking, allowing the new information to receive careful and comprehensive review by EPA’s Science Advisory Board’s (SAB) Clean Air Scientific Advisory Committee (CASAC) and the public before it is used as a basis in a rulemaking that determines whether to revise the NAAQS.” 75 Fed. Reg. at 2944.

The Clean Air Act establishes a clear process for reviewing and revising NAAQS over a five-year period. EPA’s proposed revised ozone NAAQS bypass that statutorily mandated process. EPA has not prepared a criteria document and issued it simultaneously with the proposed revised NAAQS, as required by CAA sections 108(a) and (c) and 109(a)(2), (b), and (d)(1). Nor has a new criteria document been submitted for review by CASAC, as required by Clean Air Act section 109(d)(2). Moreover, revising the NAAQS without a full review of new scientific and technical data is adverse to the statutory principles set out in the CAA that require the Administrator to assess the latest air quality data and research when revising the NAAQS.

The U.S. Court of Appeals for the D.C. Circuit is the appropriate venue to determine whether the 2008 ozone standards meet the CAA’s requirement that national ambient air quality standards are set at the level requisite to protect public health and welfare; not EPA. The CAA specifies that judicial review of air quality standards is proper only in that court. It is the responsibility of the court to determine whether the 2008 ozone NAAQS are arbitrary and capricious, an abuse of Administrator Johnson’s discretion, or otherwise not in accordance with law.

EPA’s explanation for why it is reconsidering and tightening the 2008 ozone NAAQS relies heavily on the fact that former Administrator Johnson did not adopt all of the recommendations of CASAC in the 2008 rule. The Clean Air Act does not require such deference to CASAC. The Act requires only that EPA submit the criteria document to the [SAB] for advice and comment; it does not require that the Administrator obtain approval of the SAB or

incorporate all suggested changes. *American Petroleum Institute v. Costle*, 665 F.2d 1176, 1188 (D.C. Cir. 1981), cert. denied, 455 U.S. 1034 (1982).¹

CASAC is not even an appropriate body to make the kinds of judgments that have to be made in weighing all of the relevant factors to determine what is the “requisite” level of ozone to protect public health and what is an “adequate” margin of safety. Establishing NAAQS necessarily involves weighing numerous factors. Although CAA section 109(d)(2)(C) indicates that CASAC should advise the Administrator of “any adverse public health, welfare, social, economic, or energy effects which may result from various strategies from attainment and maintenance of” NAAQS, consideration of the implications of those effects and how those factors should be taken into account and weighed in establishing a revised NAAQS must be done by the Administration, not by a group of scientists. Additionally, many of the issues associated with setting NAAQS concern practical implementation (such as the form of the standard) that are within the expertise of EPA, not the CASAC scientists.

RMA also wishes to respond to EPA’s repeated references in the preamble to the proposed rule the fact that CASAC members sent a letter urging reconsideration of the ozone NAAQS after they were adopted in 2008 (referred to in the preamble to the proposed rule as the “CASAC advice following [the] 2008 decision”). 75 Fed. Reg. 2992-93, 3017-18. There is no statutory provision for the issuance of such “advice” or for EPA’s (partial) reliance on it. That kind of advocacy is not appropriate for the role Congress established for CASAC in CAA section 109(d). As such, it would be improper for EPA to rely in any way on that CASAC advocacy as justification for revising the ozone NAAQS. Moreover, relying on such post-rule communications is inconsistent with EPA’s claim that it is merely relying on the record for the 2008 rule. Certainly if EPA is going to consider any post-rule information, it is required to consider all available post-rule information.

RMA wishes to emphasize as well that it is particularly inappropriate for EPA to use the extra-statutory “reconsideration” approach to change the secondary NAAQS. Since the secondary standard for the first time would be set at a level potentially more stringent than the primary standard, and EPA would express the secondary standard in a whole different manner, as

¹ Note also that because of environmental groups’ insistence that CASAC’s recommendations are virtually binding on EPA, they would be effectively estopped from arguing against a revised standard that EPA set at the upper bound of the range CASAC recommended, i.e. 0.070 ppm.

well, revising the secondary standard would force state agencies, businesses, and municipalities into a whole new series of actions not required by the 2008 secondary standard, implicating a much wider range of issues even than revising the primary standard. Even EPA acknowledges that perhaps implementation of a new secondary standard would need to be phased in over a longer period of time than the primary standard. Taking on the broader implications of setting a whole new type of secondary standard, and the resulting impacts of that decision, through an abbreviated reconsideration proceeding is not necessary (as no public health issue is implicated) nor appropriate. If EPA wishes to revise the secondary standard, it should do so through a more orderly, thorough, and deliberate review over the next few years, as the CAA contemplates.

II. EPA should take into account expected reductions in emissions from other mobile and stationary source regulations before new ozone NAAQS are considered

Exposure to ground-level ozone in virtually all populated areas of the United States already has dropped substantially over the past 40 years, while the population and economy have grown substantially. Ambient ozone exposure will continue to decrease, as a result of implementation of the 1997 ozone NAAQS (not yet completed) and implementation of the 2008 ozone NAAQS (not yet started). In addition, over the next twenty years cleaner fuels and additional air regulatory programs are expected to produce large air quality improvements. In their projections of air quality in 2020, EPA took into account emissions reductions from the following federal regulations: “the Clean Air Interstate Rule (CAIR), the Clean Air Mercury Rule, the Clean Air Visibility Rule, the Tier 2 auto and light truck emission standards, several rules affecting diesel engines, and some state and local measures.”² In addition to the benefits in air quality as a result of these rules, ground level ozone will also be reduced as a result of the recently finalized NAAQS NO₂, a precursor to ground level ozone. EPA should take into account the reduction in ground level ozone as a result of these federal regulations before revising the 2008 standards. Whether a lower NAAQS for ground-level ozone is “requisite” to protect the public health or welfare is dependent on whether individuals’ exposure in the

² ”Ozone Air Quality Standards: EPA’s Proposed January 2010 Revisions.” Congressional Research Service, James E. McCarthy. February 1, 2010.

absence of a lower ozone standard would be excessive; thus, it depends very much on these other anticipated reductions in air pollution.

EPA has not demonstrated that these other regulatory requirements, including of course the implementation of the EPA's adoption in 1997 and 2008 of more-stringent ozone NAAQS, will not be sufficient to ensure a requisite level of public health protection. In fact, in the Supplemental Regulatory Impact Analysis ("Supplemental RIA") for the current reconsideration of the ozone NAAQS, EPA basically acknowledges that a few areas of the country will not achieve the ambient ozone concentrations EPA asserts are needed regardless of whether EPA revises the current ozone NAAQS, and many other areas of the country will reach those levels because of control requirements already in place or that will be required by other regulations. Rather than rushing ahead to change the 2008 ozone NAAQS as they just begin to be implemented, EPA instead should take a step back and assess improvements in air quality over the next few years before making any new judgments about what level of standard is "requisite" to protect public health and welfare.

III. The health science evidence doesn't demonstrate that a new standard is justified

As noted above, establishing primary NAAQS is not a matter of simply determining what level would provide the maximum protection. EPA cannot be more protective than necessary any more than it can be less protective than appropriate. EPA therefore cannot make its decision about the ambient concentration "requisite" to protect public health with an "adequate" margin of safety in a vacuum, it must make those determinations in the broader context of the severity of the health effects at issue, the strength of the studies on which EPA is relying, and the severity of the consequences for the nation that will necessarily arise out of establishing a particular standard. In a broader context, EPA has not justified lowering the primary standard, and especially not lowering the primary standard without following the statutory procedures and reversing a decision made less than two years ago and only beginning to be implemented.

In simple terms, EPA is proposing to reduce the primary ozone NAAQS based largely on clinical studies showing respiratory effects—but no apparent health effects—in sensitive individuals at 0.060 ppm, and on epidemiology studies that EPA believes suggest there may be effects of exposure to ozone concentrations below 0.075 ppm. The clinical studies, however, did not demonstrate a clear adverse health effect from exposure to ozone concentrations below 0.075

ppm, even in the harsh conditions of the clinical tests. The significance of what they did show – diminished lung function, according to some measures, in some individuals is unclear. Observations such as this, whose significance is debatable, do not rise to the level of considerations justifying EPA’s reversing the 2008 decision and lowering the primary NAAQS now to provide adequate protection of public health, especially when viewed in the context of the achievability and societal costs of lowering the primary standard on that uncertain basis. Furthermore, these same clinical studies were reviewed as part of the 2008 Ozone NAAQS final rule and did not justify a lower standard at that time. It is inappropriate for EPA to now use this dated information to justify lowering the 2008 ground level ozone standard.

EPA also suggests that, after reconsideration it believes epidemiological studies—studies which EPA previously determined were not compelling enough to justify a lower primary NAAQS—provide additional grounds for lowering the 2008 NAAQS. Such studies are a very indirect and imprecise way of assessing the level of ozone requisite for the protection of public health. It is very difficult, and in many cases impossible, to separate the observed effects into effects caused by ozone and effects caused by other pollutants (or by a combination of ozone and other pollutants). Certainly the epidemiological studies EPA references as supporting a revised primary ozone NAAQS (which were carefully considered in the rulemaking for the existing standards) do not constitute the kind of clear evidence of insufficiency that would be needed to justify changing the judgments reflected in the 2008 rulemaking. If EPA wants to use empirical observations of large groups to reevaluate the appropriate level for the primary NAAQS, EPA should study the effect that ongoing and future reductions in ambient concentrations of ozone (and of other pollutants), will have on respiratory health.

Finally, RMA notes that the fact that EPA is considering setting the revised primary NAAQS somewhere in a fairly broad range of 0.060 to 0.070 ppm indicates that, at the least, the low end of the range cannot be said to be “requisite” to protect public health from “adverse” effects. EPA itself noted that “while the CASAC Panel supported a level of 0.060 ppm, they also supported a level above 0.060, which indicated that they did not believe the results of the Adams studies meant that the level had to be set at 0.060 ppm.” 75 Fed. Reg. at 2992. RMA does not believe that lowering the primary NAAQS even from 0.075 to 0.070 ppm would be lawful or justified, as these comments demonstrate. But at the very least, EPA could not lawfully set the primary ozone NAAQS at 0.060 ppm, since even CASAC did not conclude that a standard that

low was necessary. Doing so definitely would run afoul of the Supreme Court's conclusion that EPA may not set the primary NAAQS at a level that is "more [stringent] than necessary," *Whitman v. Am. Trucking Assns*, 531 U.S. at 474.

IV. EPA's reconsideration of the 2008 ozone standard will result in less improvement to ground level ozone concentrations and burdens state and local agencies

Petitioners challenged the final 2008 ozone standard promulgated by EPA under the CAA. At EPA's request, the court decided to hold the matter in abeyance for 180 days, pending EPA's reconsideration of the 2008 ozone standards. In addition, in the "reconsideration" proposed rule, EPA indicates it does not expect states to continue with implementation of the 2008 NAAQS. As a result, states will continue to implement the 1997 8-hour primary ozone standard of 0.0840 ppm while they wait for EPA to reconsider and revise the 2008 ozone standards.

EPA's decision to revise the 2008 ozone standards to a more stringent limit of 0.060 – 0.070 ppm will, under the circumstances, impede rather than improve human health protection measures. The current rulemaking schedule for the reconsideration of the 2008 ozone NAAQS calls for EPA to sign the final rule by August 31, 2010. To limit delays caused by moving to a new ozone standard, EPA has indicated that it will issue final designations under reconsideration standards by August 2011, and SIPs for the reconsidered standards would be due December 2013. This abbreviated schedule is unrealistic, in RMA's view, in light of experience and especially for the completely new form of the secondary standard. And in any event, litigation over the proposed revisions could further delay implementation of the revised NAAQS standards. The effect of delaying implementation will result in less improvement in ground level ozone concentrations because states will continue to implement the 1997 8-hour standard of 0.08 (effectively 0.084) ppm rather than the 2008 8-hour standard of 0.0750 ppm.

In addition, both state and local agencies and stationary sources will be burdened by the approach EPA is taking with the proposed rule. In July 2009, EPA proposed modifications to the ozone air quality monitoring network design requirements.³ EPA estimates that the proposed

³ *January 2010 Proposal to Revise the National Ambient Air Quality Standards for Ground-level Ozone, General Overview*. US EPA, Office of Air Quality Planning and Standards.

modifications will add roughly 270 new ozone monitors to the approximately 1,200 monitors in place today.

There are 3,000 counties in the U.S. and only 675 of those counties contain monitors for ground level ozone.⁴ The Congressional Research Service predicts that if the ozone standard is lowered to “0.070 ppm, 515 counties (76% of those with monitors) will exceed the standard.”⁵ If the ozone standard is lowered to 0.060 ppm, “650 counties – virtually every county with a monitor” will exceed the standard.⁶ Most of the current monitors in place today are located in or near urban areas. EPA’s proposal to expand the current monitoring system will increase the number of monitors in urban areas as well as place them in rural areas. RMA asserts that EPA should determine whether the remaining 2,350 counties in the U.S. without monitors would be in nonattainment and assess the burden these new non-attainment counties will have on states before proposing revisions to the 2008 standard. It makes no sense at all to have state and local agencies, as well as EPA staff, go through the process of determining attainment status yet again for newly revised NAAQS, based on a monitoring network that EPA believes may substantially understate the incidence of nonattainment. It makes even less sense for state and local agencies to develop State Implementation Plans, with input from businesses and governmental units, and then to begin implementing those plans, when in just a couple of years EPA or the state agency may determine that the measures contained in those SIPs are insufficient, or are the wrong measures, to address revised nonattainment designations. The reality is that regulatory agencies will be resistant to going through such a process, and businesses and municipalities will be very reluctant to invest in the required control measures, knowing that it is all based on data that EPA itself believes is not representative in many areas. Air quality will not be improved by the convoluted procedure EPA is embarking on.

RMA member facilities are predominantly located in rural areas that are currently designated as attainment areas. If EPA revises the 2008 ozone standard to 0.070 ppm, 20 RMA member facilities will be located in areas that EPA projects from existing data will be non-attainment areas. Because monitors do not exist in some rural areas where RMA member

⁴ “*Ozone Air Quality Standards: EPA’s Proposed January 2010 Revisions.*” Congressional Research Service, James E. McCarthy. February 1, 2010.

⁵ Id. at 4

⁶ Id.

facilities are located, this number is likely a gross underestimation of the number of facilities that will be located in a non-attainment area as a result of this reconsideration.

Facilities located in a non-attainment area face increased operating costs, permitting delays, and restrictions on expansions. Additionally, facilities located in counties that are designated as “severe” or “extreme” non-attainment face significant penalty fees under section 185 of the CAA. An increase in the number of non-attainment areas as a result of the proposed rule will significantly impact states and counties that must find the resources to comply with the additional burdens of being in non-attainment. RMA recommends that EPA consider the significant regulatory burden this reconsideration will have on states at a time where there are few resources available at the state and county level to fully implement the proposed standards.

V. Secondary Standard

The preamble to the proposed rule does not provide any clear justification for revising the current secondary NAAQS for ozone less than two years after it was promulgated. As noted in the first part of these comments, the changes EPA is proposing for the secondary standard – making it potentially more stringent than the primary standard for the first time, and expressing it for the first time in a different and much more complicated form (essentially a cumulative exposure, weighted by the height of the peaks and averaged over three years) – mean that revising the secondary standard would have very major implications for regulatory agencies, stationary sources, and local governments. Additionally, EPA’s plan to require more monitors to be sited in rural areas means that the new data those monitors will generate will be particularly likely to show nonattainment of the new secondary standard.

Under these circumstances, EPA needs to have a compelling reason for revising the secondary NAAQS, especially outside of the normal CAA process. In addition, EPA must assess all of the welfare implications of lowering the standard (which includes, among other things, effects on climate, per CAA section 302(h)), in order to make any kind of rational judgment that lowering the standard will have a beneficial effect on welfare, much less that it is “requisite” to protect welfare. Taking into account the proper balance of these factors, EPA has not provided a compelling reason to show why EPA’s 2008 ozone standard was wrong and must be changed.

While RMA is not an expert in the effects of ozone on vegetation and the implications of those effects for social welfare, RMA is aware that the federal agency directly concerned with protection of agricultural and silvicultural resources: the U.S. Department of Agriculture, has evaluated these factors. The USDA Agricultural Air Quality Task Force wrote a white paper on this topic, “Proposed Revision of National Ambient Air Quality Standards (NAAQS) for Ozone (2007),” which is available at <http://aaqtf.tamu.edu/>, and was incorporated into the record for the promulgation of the 2008 ozone NAAQS. USDA concluded that, given the inadequacies and uncertainties in available data regarding the secondary standard, it would be inappropriate for EPA to establish a secondary standard that is different from the primary standard. The white paper indicates that much research is needed before EPA can set scientifically defensible regulatory policies concerning a revised secondary ozone NAAQS. Nothing has changed since USDA prepared that white paper (and of course EPA has said it is not relying on new information to support the proposed revisions, even if something had changed).

VI. Lack of Sufficient Assessment of Regulatory Impact

One of the consequences of EPA’s extra-statutory, abbreviated reconsideration procedure is that EPA has not performed a current, sufficient analysis of the social, economic, and energy effects of the revised standards it is proposing. EPA is obligated to do so under the Clean Air Act and also under other statutes, such as the Small Business Regulatory Enforcement Act, and executive orders. In order to determine whether a particular level for the primary ozone standard is “requisite” for the protection of public health and whether the margin of safety provided is “adequate,” EPA needs to consider what the practical ramifications are of setting the standard at that particular level—otherwise, as noted above, the primary standard would have to be set at 0, which the law does not require. And for the secondary standard, it is impossible for EPA to determine what level is requisite to protect public welfare without considering the ramifications that the particular level would have on public welfare, i.e., the economic and social dislocations it would indirectly mandate.

The Supplemental RIA EPA prepared for the proposed rule concludes that revising the primary standard to a level at or near 0.060 ppm would produce annual benefits of \$35-100 billion in 2020. Annual costs, however, are projected to be \$52-90 billion. In other words, even using EPA’s optimistic assumptions about attainment status, costs, and benefits, there is a good

chance that the costs of meeting the revised NAAQS would exceed the benefits by billions of dollars. If EPA lowers the primary ozone NAAQS to a level at or near 0.070 ppm, EPA projects annual benefits of \$13-37 billion and annual costs of \$19-25 billion. Again, even with EPA's dubious assumptions it is entirely possible that the costs would exceed any benefits.

These are huge projected impacts, but EPA admittedly does not really know what the impacts would be, in part because of the expansion and revision to the ambient monitoring system that would be going on at the same time, and in part because for many areas EPA and its consultants could not identify any set of existing technologies that would enable the area to meet the proposed new primary standard. Disregarding these ambiguities EPA just assumed that the cost of additional emission reductions to meet the new lower level would be linear with the cost of previous reductions in emissions of ozone precursors. See, e.g., Supplemental RIA at S1-10.

EPA failed entirely to assess the effect that its proposed lowering of the primary and secondary ozone NAAQS would have on demand for natural gas (which usually produces lower NO_x emissions) and other fuels and on energy prices, as mandated by Executive Order 13211, which requires the consideration how environmental regulations such as these would affect energy supplies. EPA also ignored the effect that tightening the ozone NAAQS would have on greenhouse gas emissions. In implementing previous ozone NAAQS, states and EPA have required sources that emit VOCs to capture and incinerate large volumes of gases, requiring those sources to burn large amounts of natural gas that they otherwise would not consume (and emitting large volumes of carbon dioxide as a consequence).

EPA's failure to adequately assess the regulatory impacts of its proposal are especially dramatic with respect to the secondary standard. Even based on the limited available ambient monitoring data, from a network that EPA asserts underestimates the impact of the proposed secondary standard, EPA has estimated that as many as 250 counties that meet the current primary ozone NAAQS of 0.075 ppm could be in nonattainment with the proposed new secondary NAAQS. See Supplemental RIA at S4-4. Nevertheless, EPA "has not previously conducted an analysis of the costs and benefits of attaining a secondary NAAQS, which is an exceptionally complex task. ... Because of these complexities as well as limited time and resources within the expedited schedule, we are limited in our ability to quantify the costs and benefits of attaining a separate secondary NAAQS for ozone for this proposal." Supplemental RIA at S4-1. Given that the cost of implementing the proposed secondary standard would likely

be tens of billions of dollars, and the benefits it might produce are ambiguous, EPA should defer any changes to the secondary standard until it has sufficient monitoring data from the expanded monitoring network and has had time to conduct a more thorough analysis of the social, economic, and energy impacts of changing the standard.

RMA again thanks the EPA for this opportunity to comment on the proposed rule.

Respectfully Submitted,

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