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OF THE  
UNITED STATES OF AMERICA

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**VIA ELECTRONIC MAIL**

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EPA Science Advisory Board Staff Office (1400R)  
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**Re: Comments on CASAC's Draft Review of EPA's Integrated Review Plan for the National Ambient Air Quality Standards for Particulate Matter (External Review Draft – April 2016) (81 Fed. Reg. 39043) (June 15, 2016) Docket No. FRL-9947-66-OA**

Dear Sir/Madam:

The U.S. Chamber of Commerce (“Chamber”), the world’s largest business federation, representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America’s free enterprise system, offers these comments on the U.S. Environmental Protection Agency’s Clean Air Scientific Advisory Committee’s (“CASAC”) draft review of the EPA’s Integrated Review Plan for the National Ambient Air Quality Standards (“NAAQS”) for Particulate Matter (External Review Draft – April 2016) (81 Fed. Reg. 39043) (June 15, 2016) (“the Draft IRP”). The Chamber is offering these comments ahead of the August 9 public teleconference of the CASAC and the CASAC Particulate Matter Panel, to discuss the Draft Review.

The Chamber members have a strong interest in EPA’s review of the NAAQS for particulate matter (“PM”), as they operate businesses in areas that may be required to make reductions to achieve any revisions to the PM NAAQS resulting from the review, and they may be prevented from expanding operations and increasing employment based on the permitting and other requirements that would apply both in attainment and nonattainment areas.

Under the Clean Air Act, the EPA is required to review the NAAQS for the six criteria pollutants, including PM, every five years. The Agency’s last review of the PM NAAQS resulted in the release of new PM standards in December 2012, which were then published in the

Mr. Aaron Yeow  
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August 2, 2016  
Page 2 of 2

Federal Register in January 2013. According to the EPA's Draft IRP for the current PM NAAQS review, the Agency anticipates proposing a rulemaking for this PM NAAQS review in 2020 and a final rulemaking in 2021. As indicated in the Draft IRP, it is unlikely that the EPA will meet the five-year review timeline for the current PM NAAQS.

Not meeting the five-year NAAQS review is not an unusual circumstance for the EPA; in fact, since the enactment of the Clean Air Act, the EPA has almost never met that timeline. As a result, the Agency is frequently sued by third-party groups for failing to meet the deadlines. In these "sue and settle" lawsuits, the EPA often will commit to issuing new NAAQS on specific and unreasonable schedules, resulting in rushed, flawed final standards that must later be corrected.

The tight schedules agreed to by the EPA in "sue and settle" consent decrees prevent stakeholders from fully participating in the rulemaking process. This is especially likely in complex and controversial rulemakings like the NAAQS reviews. On complex rules like the NAAQS, the Agency is likely to receive tens or even hundreds of thousands of comments, including very lengthy technical comments that must be addressed. Stakeholders are not given enough time to meaningfully understand and comment on the proposal, and the Agency does not have time to respond fully to the comments it receives. Most importantly, the final rule/standard does not incorporate needed clarifications and revisions that would have come to light through the public comments.

EPA's recent regulatory history demonstrates that rushing complex and technical rules that prevent full consideration of public comments, especially technical comments, leads to final rules that are seriously flawed and full of errors, which leads to additional litigation, more judicial and administrative stays, and more technical correction packages to attempt to correct the errors. The end result is prolonged regulatory uncertainty for all stakeholders, including states that are often responsible for implementing the rules. Regulated entities must face the challenge of trying to comply with rules that are likely to change either as result of litigation or through a subsequent rulemaking that reconsiders or corrects an error.

The Chamber encourages the CASAC and the CASAC Particulate Matter Panel to support the proposition that more time is needed under the Clean Air Act for reviewing the NAAQS. Specifically, the Chamber supports extending the review timeline for NAAQS from five years to ten years. Given the extent of the NAAQS reviews, the complicated rulemaking process involved, the more recent effects of "sue and settle" litigation, and the serious economic, employment and environmental impacts of any reviews and revisions of the NAAQS, it is imperative that there be more time allotted between reviews of the standards.

Thank you for the opportunity to participate in this proceeding. If you have any follow up questions, I may be reached at (202) 463-5457 or by e-mail: [wkovacs@uschamber.com](mailto:wkovacs@uschamber.com).

Sincerely,  
William L. Kovacs