



January 12, 2024

Mr. Jeffrey Zients  
Chief of Staff  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. Zients:

The U.S. Chamber of Commerce supports maintaining the existing standards for fine particulate matter under the National Ambient Air Quality Standards (NAAQS). EPA is considering discretionary action to lower standards which would lead to permitting gridlock that will hinder our ability to build new infrastructure, expand manufacturing, and grow our economy. In addition, EPA's proposal lacks transparency and lacks adequate factual analysis, as it has dramatically underestimated the impact of tighter standards by only partially estimating the geographic extent and costs of tightening the standards.

Our objections to EPA's proposed rule can be summarized by four major points of immense practical significance. A more detailed discussion of each follows:

- **EPA underestimated the number of counties that would not meet tighter standards ("nonattainment counties") by as much as 700 counties. EPA did so by counting only the counties that have PM<sub>2.5</sub> air monitors. That omission is nonsensical as many counties adjacent to counties with monitors would also violate tighter standards.**
- **43 percent of total particulate emissions are caused by fires—the largest single source of emissions. The NAAQS is the wrong tool to address this problem – and, worse, is a distraction from the right tools. The administration should focus on controlling fires, instead of imposing punitive permitting regulations that will smother infrastructure and manufacturing investments.**
- **EPA erroneously suggests that tighter PM standards would have no impacts in areas that meet those standards ("attainment areas"). But lower standards will use up available compliance "headroom" even for attainment areas – which will stifle economic growth.**
- **EPA failed to identify cost effective and technologically achievable pathways for complying with tighter standards as the agency only analyzed the costs of partial compliance. EPA arbitrarily capped its estimates of costs at \$167,000/ton of emissions reductions. But this cap doesn't reflect reality, it simply ignores the even *more* costly emissions control strategies that are needed to attain tighter standards.**

Each of these points is fundamental because it is essential that before taking action, EPA analyze and consider the full range of direct and indirect economic impacts that would result from more stringent NAAQS requirements. Overly stringent NAAQS will adversely affect jobs, business investment, and permitting in a broad range of important economic sectors and activities, *including* in areas of the country that are in attainment with the standards.

First, EPA underestimated the number of counties that would not meet tighter standards (“nonattainment counties”) by as much as 700 counties. EPA did so by counting only the counties that have PM<sub>2.5</sub> air monitors. That omission is nonsensical as many counties adjacent to counties with monitors would also violate tighter standards. EPA’s proposed rule estimate of counties that would be in violation of revised standards is more than 700, 500, 200, and 60 counties fewer at 8 µg/m<sup>3</sup>, 9 µg/m<sup>3</sup>, 10 µg/m<sup>3</sup>, and 11 µg/m<sup>3</sup> than what would actually violate the standards at each of those respective standard levels. Historically, EPA has designated many counties adjacent to those counties with air monitors as being in violation of the standards, based on the agency’s five-factor guidance that considers air quality, emission sources, vehicle miles traveled, topography, and local meteorology.

Large urban and adjacent areas would be in nonattainment, as opposed to just the counties with monitors disclosed in EPA’s proposed rule. Figure 1 and Figure 2 below compare EPA’s proposed rule nonattainment projections to those found in the U.S. Chamber of Commerce’s recent report.<sup>1</sup> As air emissions do not stop at monitored county borders, it is easy to see how expansive the number of counties in violation could be simply by considering air quality beyond the monitored counties. The projections for areas in nonattainment are represented in green for Figure 1 and dark red in Figure 2. For Figure 2, the light red areas are projected to meet the standards, but would also experience permitting restrictions as tighter standards would leave very little margin or “headroom” for economic growth as explained further below.

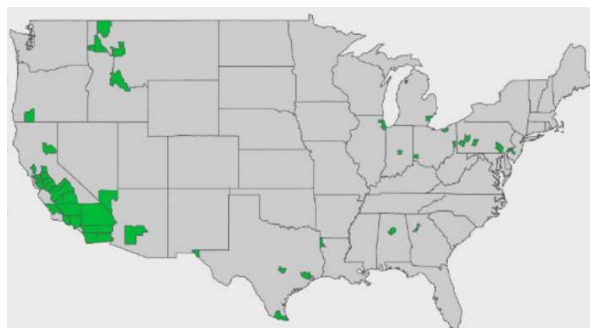


Figure 1. EPA nonattainment projection (9 µg/m<sup>3</sup> 51 nonattainment counties, green) <sup>2</sup>

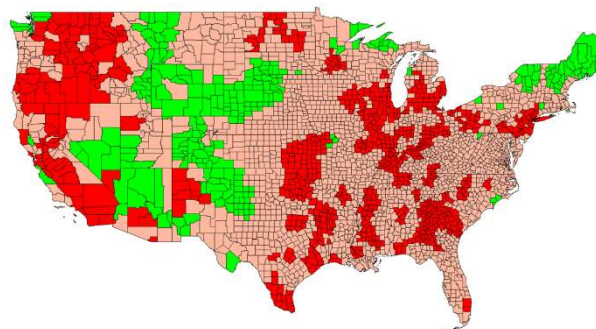


Figure 2. Chamber nonattainment projection (9 µg/m<sup>3</sup>, 569 nonattainment counties, red)

Going deeper, here are a few states where EPA failed to quantify the full impacts of permitting gridlock were the agency to tighten the standards down to 9 µg/m<sup>3</sup>.

- **Georgia:** 72 counties would be out of attainment, including all 29 counties in the core-based statistical area (CBSA) surrounding Atlanta.
- **Ohio:** 34 counties would be out of attainment, including all of the counties in the Cincinnati, Cleveland, Columbus, Dayton, Canton, Toledo, and Youngstown CBSAs.
- **Pennsylvania:** 25 counties would be out of attainment, including all 18 CBSA counties around Altoona, Allentown, Gettysburg, Harrisburg, Philadelphia, Pittsburgh, and York.

<sup>1</sup> Chamber of Commerce, November 9, 2023, <https://www.uschamber.com/energy/new-chamber-report-epas-proposed-air-quality-standards-will-cause-permitting-gridlock-across-our-economy>.

<sup>2</sup> U.S. Environmental Protection Agency, “Regulatory Impact Analysis for the Proposed Reconsideration of the National Ambient Air Quality Standards for Particulate Matter,” December 2022, [https://www.epa.gov/system/files/documents/2023-01/naaqs-pm\\_ria\\_proposed\\_2022-12.pdf](https://www.epa.gov/system/files/documents/2023-01/naaqs-pm_ria_proposed_2022-12.pdf).

- **Michigan:** 20 counties would be out of attainment, including all of the counties in the Detroit, Grand Rapids, Lansing, and Kalamazoo CBSAs.
- **North Carolina:** 15 counties would be out of attainment, including all of the counties in the Charlotte, Raleigh, and Winston-Salem CBSAs.
- **Wisconsin:** 14 counties would be out of attainment, including all of the counties in the Appleton, Platteville, Madison, and Milwaukee CBSAs.
- **New Mexico:** 4 counties would be out of attainment, including all of the counties in the Albuquerque CBSA.
- **Arizona:** 3 counties would be out of attainment, including all counties in the Phoenix, Nogales, Mesa, and Scottsdale CBSAs.

EPA's proposed rule consistently underestimates nonattainment areas for each of the standard levels (e.g. 8 ug/m<sup>3</sup>, 9 ug/m<sup>3</sup>, 10 ug/m<sup>3</sup>, 11 ug/m<sup>3</sup>), in addition to what is detailed above for standards at 9 µg/m<sup>3</sup>.

EPA made similar underestimations in the 2015 ozone NAAQS rulemaking, where the agency claimed only 14 counties<sup>3</sup> outside of California would be in nonattainment in 2025. But, with less than a year until we reach 2025, there are more than 143 counties<sup>4</sup> outside of California that are in nonattainment—an order of magnitude more than what EPA projected in their ozone rulemaking analysis.

**Second, 43 percent of total particulate emissions are caused by fires—the largest single source of emissions. The NAAQS is the wrong tool to address this problem – and, worse, is a distraction from the right tools. The administration should focus on controlling fires, instead of imposing punitive permitting regulations that will smother infrastructure and manufacturing investments.** The record 2023 wildfire season is estimated to incrementally increase the number of nonattainment areas by as much as 50 percent by simply updating the emissions data from years 2019-2020-2021 that EPA applied in their proposed rule to the more recent ambient emissions data from 2021-2022-2023.

EPA has established a process that allows states to request certain high emissions events like wildfires to be excluded when determining whether a state is violating the standards. But, the statute states that these exemptions can only be for emissions events that are “reasonably controllable or preventable.”<sup>5</sup> It is uncertain whether these exemptions could be applied to prescribed fires, an important tool to control more severe emissions from wildfires, as indicated by a California delegation of U.S. Senators and Representatives who explained that EPA’s exemption “process is unworkable for the scale of prescribed fire that will be necessary to protect our communities from increasingly catastrophic wildfires.”<sup>6</sup>

The costs that would be incurred by state governments who wish to use the exemption process is high and EPA’s ultimate approval uncertain. Because of the high costs and staff time involved in submissions, nearly 75 percent of fire emissions are not excluded, leading to

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<sup>3</sup> U.S. Environmental Protection Agency, 2015 Final Air Quality Standards for Ground-Level Ozone, “By the Numbers,” [https://www.epa.gov/sites/default/files/2015-10/documents/20151001\\_bynumbers.pdf](https://www.epa.gov/sites/default/files/2015-10/documents/20151001_bynumbers.pdf).

<sup>4</sup> U.S. Environmental Protection Agency, Green Book, 8-hour Ozone (2015) Nonattainment Area Summary, <https://www3.epa.gov/airquality/greenbook/jnsum.html>.

<sup>5</sup> Clean Air Act Section 319(b)(1)(A)

<sup>6</sup> Letter from U.S. Senators and Representatives from California to EPA on Prescribed Fires, June 13, 2023, [https://insideepa.com/sites/insideepa.com/files/documents/2023/jun/epa2023\\_1088.pdf](https://insideepa.com/sites/insideepa.com/files/documents/2023/jun/epa2023_1088.pdf)

an increase in the number of nonattainment areas. In 2021, while there were close to 4,200 emissions events influenced by fires, only 26 percent were actually submitted to EPA for exemption.<sup>7</sup> One state air office indicated it cost between \$15,000-\$20,000 for each submission to EPA. This state spent \$750,000 and staff devoted 7,500 hours of effort, only to have EPA approve just 20 of 60 submitted exemption requests.<sup>8</sup>

**Third, EPA erroneously suggests that tighter PM standards would have no impacts in areas that meet those standards (“attainment areas”). But lower standards will use up available compliance “headroom” even for attainment areas – which will stifle economic growth.** Current tools to address NAAQS are being pushed to their limits, as ambient air standards are moved closer to background concentrations of criteria pollutants. With industrial and power sector emissions continuing to drop, emissions from fires, road dust, and other non-point sources are now the predominant source of fine particulate emissions. If EPA were to lower the particulate matter NAAQS, it would shrink the margin between background concentrations and the standards, leaving little space for economic growth as increasingly higher compliance costs would be coupled with incrementally smaller emissions headroom (that is, the gap between current PM levels in the air and the standard, which is the space within which new projects can receive permits for construction and operation that allow emissions that do not push a county’s PM levels into nonattainment).

As shown in Figure 2 above, large swaths of the country highlighted in light red would be on the margins of being in violation of the standards. While a permitting process for new industrial and power sector facilities in these light red areas of the map would be expected, a tighter NAAQS increases the challenges for these businesses to demonstrate that any new or expanded facilities would not bump those areas into nonattainment.

Recent Congressional testimony highlights how new facilities from steel, power, cement, brick, paper, and others need sufficient emissions headroom to accommodate EPA’s conservative modeling approach even with the best available emissions controls installed.<sup>9</sup> Not only would conventional manufacturers bump into the lower air quality ceiling, but other manufacturers spurred by renewable energy investments may face the same challenges. For example, the CS Wind facility that the President visited<sup>10</sup> in October 2023, which would create 800 jobs due in part to Inflation Reduction Act incentives, would contribute as much as a 1.9  $\mu\text{g}/\text{m}^3$  increase in fine particulate emissions based on EPA’s modeling.<sup>11</sup> The CS Wind and other manufacturing facilities would be able to build only in increasingly limited geographical areas if EPA tightens the standards. The lower the standards, the more costly and prohibitive

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<sup>7</sup> EO 12866 Interagency Review Comments, September 9, 2022, <https://www.regulations.gov/document/EPA-HQ-OAR-2015-0072-1618>.

<sup>8</sup> Particulate Matter NAAQS: Perspectives and Challenges – Arizona, September 27, 2023, [https://cleanairact.org/wp-content/uploads/2023/09/19\\_Brad-Busby-ADEQ-AAPCA-2023-Fall-Meeting-PM-Challenges\\_Final.pdf](https://cleanairact.org/wp-content/uploads/2023/09/19_Brad-Busby-ADEQ-AAPCA-2023-Fall-Meeting-PM-Challenges_Final.pdf).

<sup>9</sup> Testimony of Timothy Hunt, American Forest & Paper Association, September 19, 2023, [https://d1dth6e84htgma.cloudfront.net/09\\_19\\_23\\_ENV\\_Testimony\\_Hunt\\_4b415cf010.pdf](https://d1dth6e84htgma.cloudfront.net/09_19_23_ENV_Testimony_Hunt_4b415cf010.pdf), page 26.

<sup>10</sup> President Biden to Visit Largest Wind Tower Manufacturer in the World, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/10/16/president-biden-to-visit-largest-wind-tower-manufacturer-in-the-world-highlight-how-bidenomics-is-driving-record-investments-in-congresswoman-lauren-boeberts-district/>.

<sup>11</sup> CS Wind Air Permit Application to Colorado Department of Public Health & Environment, Table 5.6, <https://oitco.hylandcloud.com/CDPHERMPublicAccess/api/Document/ACOK2DliwoPEaWLhCMdrN9JBTetdS3t9IAzfLcNgbWDNaSg%C3%81vmCRBpu%C3%81aMB8cFhMx6Kfi04I9oM3IOVIBfA6Z8o%3D/>.

permitting would become. The potential for added costs for these permits or the opportunity costs of a manufacturing facility not being built were not considered in the EPA proposed rule.

**Fourth, EPA failed to identify cost effective and technologically achievable pathways for complying with tighter standards as the agency only analyzed the costs of partial compliance. EPA arbitrarily capped its estimates of costs at \$167,000/ton of emissions reductions. But this cap doesn't reflect reality, it simply ignores the even *more* costly emissions control strategies that are needed to attain tighter standards.** The agency stated that “[t]he estimated PM2.5 emissions reductions from these control applications do not fully account for all the emissions reductions needed to reach the proposed and more stringent alternative standard levels in some counties in the northeast, southeast, west, and California.”<sup>12</sup> Importantly, lack of identification of all control pathways means that the proposal underestimates regulatory costs and also raises the serious possibility that the only path to compliance in some areas will be closure of existing manufacturing and industrial facilities.

## Conclusion

In 2011, the White House Office of Management and Budget (OMB) returned a similarly damaging and unnecessary draft NAAQS rule to the EPA Administrator. Acknowledging the potential negative economic effects of tighter NAAQS standards, OMB returned EPA's draft 2011 ozone NAAQS final rule to the Administrator to consider, among other things, the policy directive of EO 13563 “to minimize regulatory costs and burdens.”<sup>13</sup> OMB should take the same step in this case.

Sincerely,



Neil L. Bradley  
Executive Vice President, Chief Policy Officer,  
and Head of Strategic Advocacy  
U.S. Chamber of Commerce

cc: Lael Brainard, Director of the National Economic Council  
John Podesta, Counselor to the President  
Michael Regan, Administrator, U.S. Environmental Protection Agency  
Steve Ricchetti, Counselor to the President  
Gene Sperling, Counselor to the President  
Ali Zaidi, National Climate Advisor

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<sup>12</sup> U.S. EPA, “Regulatory Impact Analysis”, ES-4.

<sup>13</sup> Office of Management and Budget, Letter to the Environmental Protection Agency on “Reconsideration of the 2008 Ozone Primary and Secondary National Ambient Air Quality Standards,” [https://www.reginfo.gov/public/return/EPA\\_Return\\_Letter\\_9-2-2011.pdf](https://www.reginfo.gov/public/return/EPA_Return_Letter_9-2-2011.pdf).