

Testimony
U.S Senate Committee on Environment and Public Works
Subcommittee on Clean Air and Nuclear Safety
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by
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Madam Chair, members of the Committee. My name is Misael Cabrera, I am the Director of the Arizona Department of Environmental Quality and I greatly appreciate the opportunity to offer testimony today.

The ORDEAL Act (Ozone Regulatory Delay and Extension of Assessment Length Act of 2017) and the Ozone Standards Implementation Act of 2017 provide immediate relief to all states and some of Arizona's industrialized areas, allowing enough time for measures required by the 2008 Ozone standard to fully take effect and air quality to improve (Attachment A).

Irrespective of the implementation timeframe, however, the standard itself remains a challenge for Arizona and that is why we are the lead state challenging the standard in court. The Clean Air Act has five mechanisms to bring nonattainment areas in to compliance or provide relief - all of them are inadequate for rural Arizona and likely other Western states. These mechanisms include: state regulation; designating rural transport areas; designating interstate or international transport areas; and demonstrating exceptional events. I will discuss each mechanism and its shortcomings in the context of a small county in rural Arizona.

Yuma County is located in the southwest corner of Arizona, bordered by both California and Mexico. The county contains a few small towns and the City of Yuma, and has the highest unemployment rate of any metropolitan area in the U.S. (July 2016¹). Yuma is predominantly an agricultural community, and despite its lack of industrialization, Yuma County exceeds the 2015 ozone standard.

As you may know, volatile organic compounds (VOCs) and oxides of nitrogen (NOx) react in the presence of sunlight to produce ozone. According to EPA's 2014 National Emission Inventory, industrial sources account for only 2% of total VOC emissions, and 5% of NOx emissions within the County. All other sources are either naturally occurring, or not regulated by the State. Simply put, there aren't enough

¹ <https://www.bls.gov/opub/ted/2016/yuma-arizona-had-highest-unemployment-rate-in-july-2016.htm>

emissions sources that Arizona can regulate to achieve compliance with the new standard (See Attachment B).

In addition, Yuma County would not qualify for the rural transport mechanism because the Clean Air Act states that a rural area seeking relief cannot be adjacent to or include any part of a Metropolitan Statistical Area (MSA), defined by the U.S. Census as an entire county comprising of 50,000 people or more.

The Cross-State Air Pollution Rule is yet another option that does not apply to Yuma County. Although 20% of ozone concentrations in Yuma County emanate from California manmade sources, the rule only helps downwind nonattainment areas receive emissions reductions from upwind attainment areas. California has already implemented the most stringent controls in the Country, is still unable to achieve compliance with the standard, and has no emissions reductions to contribute downwind (see Attachment C).

Further, the exceptional events rule is of dubious value to Yuma County, if not the whole country. Although Arizona has been a national leader in the development of exceptional event documentation for dust events, the process for documenting and receiving EPA approval of ozone exceptional events has not been explained, will be almost certainly resource intensive, and is difficult to predict.

The best case scenario for Yuma is that our agency can make an international transport demonstration given that EPA's own modeling shows that international sources² are responsible for 68% of ozone emissions affecting Yuma (Attachment D – EPA Ozone Map & Data).

Unfortunately, that demonstration can only occur after the three year marginal attainment deadline is exceeded and Yuma would still have to comply with higher nonattainment classification requirements – requirements that would limit economic growth in a high unemployment area in perpetuity as a consequence of emission sources that originate primarily outside of Arizona or outside of Arizona's jurisdiction and control.

To further exacerbate the issue of international transport demonstrations, the EPA's proposed Implementation Rule requires an area to implement Reasonable Available Control Measures before the

² Includes natural and manmade sources outside of the modeling domain.

EPA will review the demonstration.

For all these reasons, Arizona is challenging the 2015 ozone standard in court and favors longer implementation timeframes. We also request that consideration be given to legislation that would allow rural and international transport demonstrations before areas are classified as nonattainment and before unnecessary regulation is initiated.

Thank you and I am happy to answer any questions.