February 13, 2017

VIA ELECTRONIC FILING

Acting Administrator Catherine McCabe
Environmental Protection Agency
Attention Docket ID No. EPA-HQ-OAR-2016-0202
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Docket ID No. EPA-HQ-OAR-2016-0202: Proposed Rule on Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implantation Plan Requirements; Federal Register Vol. 81, No. 222 (Thursday, November 17, 2016); RIN 2060-AS82

Dear Acting Administrator McCabe:

GPA Midstream has served the U.S. energy industry since 1921 as an incorporated non-profit trade association. GPA Midstream is composed of nearly 100 corporate members that are engaged in the gathering and processing of natural gas into merchantable pipeline gas, commonly referred to in the industry as "midstream activities." Such processing includes the removal of impurities from the raw gas stream produced at the wellhead, as well as the extraction for sale of natural gas liquid products (NGLs) such as ethane, propane, butane and natural gasoline. GPA Midstream members account for more than 90 percent of the NGLs produced in the United States from natural gas processing.

In October 2015, EPA promulgated a revised 8-hour National Ambient Air Quality Standard ("NAAQS") for ozone ("2015 ozone NAAQS" or "2015 standard"), which lowered the primary 8-hour ozone standard from 0.75 parts per million (ppm) established in 2008 to 0.070 ppm. States have submitted letters to EPA recommending areas that should be designated as attainment, nonattainment or unclassifiable under the 2015 standard. EPA is expected to promulgate the area designations by October 2017. At that time EPA will also "*classify*" the relative severity of the "nonattainment" problem in designated nonattainment areas as either a Marginal, Moderate, Serious Area or Extreme. The classifications will drive, among other things, deadlines for attaining the 2015 standard as well as major source and major modification thresholds. The 5-tiered ozone nonattainment classification system is unique to the ozone NAAQS and reflects the unique nature of ozone as an air pollutant as compared to the other criteria air pollutants.

On November 17, 2016, EPA published a proposed rule for public notice and comment in the Federal Register titled, *Implementation of the 2015 National Ambient Air Quality Standards*

GPA Midstream Association
Sixty Sixty American Plaza, Suite 700
Tulsa, Oklahoma 74135
(918) 493-3872

*for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements ("*2015 Ozone NAAQS Implementation Rule").[1] The proposal presents EPA's nonattainment area classification thresholds and implementation requirements for the 2015 standard and, in so doing, it lays the groundwork for transitioning from the 2008 to the 2015 standard. On December 19, 2016, EPA extended the January 12, 2017 public comment deadline for the proposal to February 13, 2017.[2] GPA Midstream is pleased to supply the following comments on key aspects of the proposed 2015 ozone NAAQS Implementation Rule.

1. **GPA Midstream strongly supports EPA's Option 1 for revoking the 2008 ozone NAAQS. GPA Midstream Urges EPA to Reject Option 2 since it is inconsistent with the agency's past ozone revocation procedure**.

The EPA proposed and is seeking comment on, among other things, two alternative approaches for revoking the 2008 ozone NAAQS. The first approach, Option 1, is modeled on the one EPA has used in the past when transitioning between ozone NAAQS. Under Option 1, the 2008 ozone NAAQS would be revoked at the same time for all areas of the country, and a set of appropriate and protective anti-backsliding requirements would apply in areas that are designated nonattainment for the 2008 and the 2015 ozone NAAQS as of one year after the effective date the designations for the 2015 standard are promulgated. The proposed anti-backsliding provisions would ensure that more stringent SIP requirements necessitated by applicable area classifications under the 2008 standard are maintained as enforceable and effective (no relaxation). Under Option 1, there would be no additional reclassifications under the 2008 ozone NAAQS as the standard would be no longer effective. States and other air regulatory authorities would only be required to move forward with the planning and related administrative rulemakings necessitated by an area's classification under the 2015 standard. Prior measures adopted by states to address nonattainment under the 2008 standard would be preserved through the protective anti-backsliding requirements to be implemented as part of the implementation of the 2015 standard. This means that states, other air regulatory authorities and regulated sources would not have to struggle with implementing and complying with wholly separate NAAQS for the same pollutant and competing and potentially conflicting requirements. Option 1 is simple, expedient, consistent with EPA's past ozone NAAQS revocation procedure and it will be protective.

Under Option 2, on the other hand, EPA would not revoke the 2008 ozone NAAQS in any area that is designated as nonattainment for that standard at the time the designations for the 2015 standard are promulgated. Areas designated as nonattainment for the 2008 standard would continue to take the steps needed to demonstrate attainment of the standard. EPA would

[1] 81 Fed. Reg. 81276 (November 17, 2016).

[2] 81 Fed. Reg. 91894 (December 19, 2016).

continue to reclassify areas under the 2008 standard that continue to fail to attain the 2008 ozone NAAQS. Option 2 would therefore require certain areas of the country to continue to adopt and implement separate State Implementation Plans ("SIPs") for the two separate standards. This will create confusion and a needlessly complex regulatory scheme in those areas. It will also result in, for example, the less stringent 2008 standard driving major stationary source and major modification air permitting thresholds on a go forward basis rather than allowing those possible step-ups to be addressed under the more stringent 2015 standard. The 2015 standard, and the impending nonattainment designations and classifications under that standard, represent EPA's most current, formal statement of the ambient standard across the country. Thus, EPA and the states should be focused on the attainment of the new 2015 standard, not the superseded 2008 standard.

While Option 2 purports to follow the revocation approach established for the 1997 primary annual particulate matter ($PM_{2.5}$) NAAQS and further purports to be consistent with the approach established for the transition from the prior lead and sulfur dioxide (SO_2) NAAQS to the current lead and SO_2 NAAQS, it has never been utilized for past revocation of an ozone NAAQS, nor has EPA provided any compelling reason (or any reason at all for that matter), for why Option 2 would be preferable to Option 1. The five-tiered statutory scheme for classifying the relative severity of ozone nonattainment in any given area is unique relative to the other criteria air pollutants.[3] The system is unique because unlike the other criteria pollutants, ozone is not directly emitted by stationary sources. Ozone formation is a function of atmospheric chemistry and meteorology with no direct linear relationship to stationary source emissions. This causes ozone nonattainment to be more confounding and more difficult to address as compared to benefits seen from the direct control of stationary and mobile sources for pollutants like CO, PM_{10}, $PM_{2.5}$ and SO_2 and lead. As a result, how revocation of NAAQS is handled for the other criteria pollutants is irrelevant to the procedure for revoking a past ozone NAAQS and transitioning to a newly promulgated ozone standard. EPA previously adopted such a procedure for ozone that both works and is protective of the environment.

Since EPA deemed it necessary to increase the stringency of the 2008 NAAQS with the 2015 standard, it should focus on implementing the latter consistent with its past practice for

[3] While carbon monoxide ("CO") and $PM_{10}/PM_{2.5}$ nonattainment areas can be classified as either "moderate" or "serious" (*see e.g.*, CAA §§ 186(a)(1), 188(a)-(b), 42, U.S.C. §§ 7512(a) and 7513(a)-(b)), the ozone standard has five classification tiers, not two, which differs from the ambient standards for those pollutants as well as from the standards for SO_2 and lead that are not subject to any nonattainment classification system at all. Additionally, while "serious" CO and $PM_{10}/PM_{2.5}$ nonattainment areas can be subject to reduced major source and major modification thresholds, for CO the threshold reduction can only take effect upon a specific stationary source contribution finding made by EPA. *See* CAA § 187(c)(1) 42, U.S.C. §§ 7512a(c)(1). GPA Midstream is unaware of any such EPA finding for CO. According to the EPA Green Book, there are five "serious" PM_{10} nonattainment areas in the country and no areas classified as "serious" for $PM_{2.5}$. Four of the serious "serious" PM_{10} nonattainment areas are rural counties in California and one of which is an urban area (Phoenix, AZ). Therefore, the practical effect of reduced major source levels in "serious" PM_{10} nonattainment is very limited.

transitioning to new ozone NAAQS under Option 1. Adoption and implementation of Option 1 will extinguish the 2008 standard and, in so doing, the need for states to adopt, maintain and administer two distinct SIPs and requirements for the same pollutant. GPA Midstream understands that Option 1 is being endorsed by many, if not most, states and other air regulatory authorities. GPA Midstream therefore urges EPA to adopt Option 1 for revocation of the 2008 standard and to reject Option 2.

2. EPA should apply its interpretation of Section 179B of the Clean Air Act to any ozone nonattainment area impacted by emissions emanating from outside the United States.

Section 179B of the Clean Air Act allows EPA to approve an ozone attainment SIP for an area if a state can demonstrate that "but for the emissions emanating from outside the United States," the area would attain and maintain NAAQS. EPA is seeking comment on whether CAA § 179B should be limited to states that border Mexico and Canada or expanded to any area impacted by emissions from outside the U.S. While CAA § 179B is titled "International Border Areas", a plain reading of the statute does not indicate its application should be limited to areas that physically border Canada or Mexico. A plain reading of the provision indicates it should be applied to any area impacted by and subject to emissions emanating from outside the U.S. In light of scientific certainty with regard to trans-boundary ozone transport and background conditions and impacts, drawing an artificial distinction between border and non-border states is unwarranted as a practical matter and by express reference to CAA § 179B.

By way of example, GPA Midstream understands that many western states that do not border Canada or Mexico, monitor high levels of ozone attributable to trans-border emissions that the states have no legal authority to address or control. For example, according to the Regional Air Quality Council ("RAQC"), the governmental planning authority for the Denver Metropolitan/Northern Front Range ozone nonattainment area, concentrations of ozone on the Colorado Front Range are impacted heavily by sources outside the state. The RAQC indicates that interstate contributions to ozone concentrations in the nonattainment area total 10-15% or ≈ 8-12 ppb and that U.S. background concentrations (including trans-boundary conditions) in the west comprise 55-60% or ≈ 42-47 ppb, thus leaving Colorado-only based contributions at 25-35% or 18-25 ppb. *See* RAQC presentation, *Implementation of the 2015 Ozone NAAQS*, December 2, 2016. These data alone would appear to support an attainment designation under the 2008 and 2015 NAAQS for the Denver Metropolitan/Northern Front Range ozone nonattainment area, an area that both leads the nation in the control of oil and gas stationary sources, and one that also sees very little additional incremental benefit from such controls where ozone is concerned. EPA's 2015 ozone implementation rule can and should recognize this reality. This can be achieved under CAA § 179B to assist states that, despite the implementation of stringent control measures, continue to experience ongoing nonattainment because of emissions that are beyond their legal authority to address or otherwise control.

Utilizing the authority provided to EPA under CAA § 179B is clearly warranted in any state that can demonstrate that "but for the emissions emanating from outside the United States" an area considered nonattainment should be, in fact, designated as in attainment. Allowing non-border states to make, and EPA to rule on, CAA § 179B demonstrations will ensure that these states' ozone SIPs are properly and realistically calibrated (as are border states' SIPs) to include control strategies that reflect their limited efficacy in light of existing trans-boundary transport and background conditions. Accounting for such conditions will help guard against what may appear, facially, to be benefits from more stringent controls when the converse is, in fact, true. It is wasteful to require sources to incur significant costs to purchase, install and operate controls to meet ever more stringent NOx and VOC emissions limitations in areas impacted significantly by emissions from outside the United States when those controls will have no impact whatsoever on monitored (and modelled) ozone levels. Ozone attainment planning and policy-making at every level should plainly recognize this fact. This can be achieved, in large part, through the proper exercise of EPA's CAA § 179B authority. GPA Midstream therefore endorses EPA's proposal to apply its authority under CAA § 179B to non-border and border states alike.

We appreciate the agency's consideration of our comments. If you have questions or we can be of further assistance then please contact me at (202) 279-1664 or by email at mhite@GPAglobal.org .

Sincerely,

Matthew Hite
Vice President of Government Affairs
GPA Midstream Association