Good afternoon, and thank you for the opportunity to speak today. My name is Rachel Fullmer and I’m a senior attorney at Environmental Defense Fund.

EDF is a nonprofit organization representing more than 2 million members and supporters nationwide. EDF links science, economics, and law to create innovative, equitable, and cost-effective solutions to urgent environmental problems. EDF and its members are deeply concerned about the harmful public health impacts of ground-level ozone pollution and EPA’s failure to take meaningful action to reduce the public health burden of this pollution.

I live in Denver, Colorado where my daily life is often altered by unhealthy levels of air pollution. High levels of ground-level ozone pollution frequently disrupt my planned outdoor activities, like trail runs and hikes, particularly during the summer months when ozone formation is more pronounced. Just last weekend, I turned my car around halfway to a trailhead upon hearing the ozone reading. I knew it was simply unhealthy to run for an hour outdoors with the current pollution levels. The summers in Colorado will only become hotter and longer with climate change, leading to increased ozone formation and more frustrating summer days indoors.

For me—and the more than 137 million other Americans living in an area with unhealthy levels of ozone pollution—it is critical to reduce this harmful pollution, and there are ample, commonsense solutions available to do so. But EPA must first put in place protective national standards.

EPA’s legal obligations during a review of the National Ambient Air Quality Standards (“NAAQS”) are clear. The Clean Air Act requires the Administrator to set the primary, health-based standard at a level that is “requisite to protect the public health” with “an adequate margin of safety.” Importantly, the standard must be set at a level that not only protects the average member of the population, but also guards against adverse effects in vulnerable subpopulations—such as children, seniors, disadvantaged socioeconomic populations, people with heart and lung disease, outdoor workers, and others particularly vulnerable to air pollution.

The science on ozone pollution strongly points toward the need for more protective standards—a conclusion that is strengthened by the fact that the agency is legally required to err on the side of protecting public health in making this determination.

There is a wealth of evidence looking at health harms from exposure to ozone pollution at levels below the current standard of 70 parts per billion (ppb). As many health scientists and air pollution experts have testified to over the past two days, that body of scientific evidence showing health harms below that level has only strengthened since EPA’s last review of the ozone standards. This robust body of available scientific evidence, combined with EPA’s clear-cut legal duties to protect public health when selecting a level, along with an adequate margin of safety to ensure protection of sensitive groups, require that EPA establish a more protective standard, with all of the most recent evidence pointing to a standard no higher than 60ppb.
I also want to take a moment to briefly address at least one of the significant abnormalities in this current review process which have frustrated full consideration of this extensive body of evidence and of the public’s input on strengthening the standards. EPA has provided only 48 days, *in total*, for public comment on this proposal.

This would be a remarkably short comment period for such a consequential, highly technical, and scientific rulemaking, even in the absence of a deadly respiratory pandemic that is disrupting all aspects of American life. EPA routinely provides longer comment periods on nationwide rules of this importance, including a 90-day comment period on the proposed ozone NAAQS in 2014. Here, EPA offers no reason whatsoever for why a comment period of about half the length would be sufficient. Even EPA’s recent—and significantly shorter—proposal regarding the particle pollution NAAQS afforded commenters 60 days. It is irrational to provide a shorter comment period for a longer proposal of similar complexity. Moreover, the unreasonably short time period EPA has provided is substantially exacerbated by the current public health crisis—which underscores that the public should have far more than the customary 90-day comment period, not substantially less. Accordingly, we urge EPA to provide at least 90-days for public comment.

This rulemaking is a foundational public health rule with far-reaching implications for all Americans. And EPA’s proposal to maintain the ozone standard despite the large body of medical and scientific evidence showing that the current level does not adequately protect public health undercuts the foundational air quality protections at the heart of EPA’s work and mission.

We urge Administrator Wheeler to fulfil his legal obligations to set a standard that protects public health margin of safety and fully considers the current body of science on ozone pollution – both of these factors pointing to an appropriate level no higher than 60ppb.

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