



March 17, 2015

Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Mail Code 28221T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Docket No. EPA-HQ-OAR-2008-0699, National Ambient Air Quality Standards for Ozone

Dear Administrator McCarthy:

On behalf of the nation's mayors, counties, cities and regions, we respectfully submit our comments on the U.S. Environmental Protection Agency's (EPA) "Draft Documents Related to the Review of the National Ambient Air Quality Standards (NAAQS) for Ozone."

Our organizations, which collectively represent the nation's 19,000 cities and mayors, 3,069 counties and more than 500 regional councils, support the goals of the Clean Air Act (CAA) and the National Ambient Air Quality Standards (NAAQS) that protect public health and welfare from hazardous air pollutants. Local governments across the country are actively working toward meeting these goals of improving air quality.

The NAAQS applies to counties and cities within a metropolitan region and plays a critical role in shaping regional transportation plans and can influence regional economic vitality. The proposed rule would revise the current NAAQS for ozone of 75 parts per billion (ppb), which was set in 2008, proposing to reduce both the primary and secondary standard to within a range of 65-70 ppb over an 8-hour average. EPA is also accepting comments on setting the standard at a level as low as 60 ppb.

Because of the financial and administrative burden that would come with a more stringent NAAQS for ozone, we ask EPA to delay implementation of a new standard until the 2008 standard is fully implemented. The current 2008 standard of 75 ppb has yet to be implemented due to litigation opposing the standard. The 1997 standard of 80 ppb is still generally used by regions and it will take several additional years to fully implement the more stringent 2008 standard.

A more stringent NAAQS for ozone will dramatically increase the number of regions classified as non-attainment. By EPA's own estimates, under a 70 ppb standard, 358 counties and their cities would be in violation; under a 65 ppb standard, an additional 558 counties and their cities would be in violation. Unfortunately, there is very little federal funding available to assist local governments in meeting CAA requirements. According to EPA, under this proposed rule a 70 ppb standard would cost approximately \$3.9 billion per year; a 65 ppb standard would cost approximately \$15.2 billion annually to implement.¹

Moreover, these figures do not take into account the impact that the proposed rule will have on the nation's transportation system. Transportation conformity is required under the CAA² to ensure that federally-supported transportation activities (including transportation plans, transportation improvement programs, and highway and transit projects) are consistent with state air quality implementation plans. Transportation conformity applies to all areas that are designated non-attainment or "maintenance areas" for transportation-related criteria pollutants, including ozone.³ Transportation conformity determinations are required before federal approval or funding is given to transportation planning and highway and transit projects.

For non-attainment areas, the federal government can withhold federal highway funds for projects and plans. Withholding these funds can negatively affect job creation and critical economic development projects for impacted regions, even when these projects and plans could have a measurable positive effect on congestion relief.

Additionally, these proposed new ozone regulations will add to an already confusing transportation conformity compliance process due to a recent decision by the United States Court of Appeals for the District of Columbia Circuit. In 2012, after the 2008 NAAQS for ozone was finalized, EPA issued a common-sense proposal to revoke the 1997 NAAQS for ozone in transportation conformity requirements to ensure that regulated entities were not required to simultaneously meet two sets of standards—the 1997 and 2008 NAAQS for ozone. However, the court disagreed, and on December 23, 2014 ruled, in *Natural Resources Defense Council vs. Environmental Protection Agency and Gina McCarthy*, that EPA lacked the authority to revoke conformity requirements. This ruling has left state and local governments with a conformity process that is now even more confusing and administratively burdensome, and a new NAAQS for ozone will add to the complexity.

Given these financial and administrative burdens on local governments, we urge EPA to delay issuing a new NAAQS for ozone until the 2008 ozone standard is fully implemented.

¹ The cost to California is not included in these calculations, since a number of California counties would be given until 2032–2037 to meet the standards.

² Section 176(c) (42 U.S.C. 7506(c))

³ See 40 CFR Part 93, subpart A

If you have any questions, please contact us: Judy Sheahan (USCM) at 202-861-6775 or jsheahan@usmayors.org; Julie Ufner (NACo) at 202-942-4269 or jufner@naco.org; Carolyn Berndt (NLC) at 202-626-3101 or Berndt@nlc.org; Joanna Turner (NARC) at 202-618-5689 or Joanna@narc.org.


Sincerely,



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