

Background Paper on Significant EPA Regulations Pending or Proposed

Revised National Ambient Air Quality Standard for Ozone

Background

Ozone is a major component of smog. Ozone is not a pollutant emitted into the air; rather, it is the product of chemical reactions among nitrogen oxides (NO_x), volatile organic compounds (VOCs), carbon monoxide (CO), and methane (CH₄). NO_x and VOCs are emitted by power plants, industrial facilities, motor vehicles and other sources. Sunlight and hot weather accelerate the formation of ozone; thus it is principally a summertime air pollutant.

Under Section 109 of the Clean Air Act (CAA), EPA is required to issue national ambient air quality standards (NAAQS) for six air pollutants: ozone, particulate matter, NO_x, CO, sulfur dioxide, and lead. EPA is required to issue both primary and secondary standards. Primary standards are requisite to protect the public health with an adequate margin of safety. Secondary standards are requisite to protect the public welfare from any known or anticipated adverse effects of the pollutants. These adverse effects include effects on vegetation, wildlife, and visibility. EPA must review existing NAAQS and issue revised or new primary and secondary standards (as appropriate) every five years. Under the statute, the Clean Air Scientific Advisory Committee (Advisory Committee) provides EPA with advice on NAAQS. If EPA proposes a standard that differs “in any important respect” from the advice provided by the Advisory Committee, then EPA must provide an explanation in the proposed standard for the difference.

Enforcement of the NAAQS is the responsibility of the states. Under Section 110 of the CAA, the states are required to adopt EPA-approved State Implementation Plans (SIPs) that set forth measures to attain and maintain compliance with the standards. Large cities, counties or other designated geographic areas that fail to comply with an NAAQS are deemed “non-attainment” areas. An area can be a “non-attainment” area for one air pollutant but an “attainment” area for another air pollutant. If an area is deemed a “non-attainment” area, then the state in which the area is located must implement SIP-specified air pollution control measures to achieve attainment. For example, if an area is a “non-attainment” area for ozone, then the state must implement SIP control measures to reduce emission of NO_x and VOCs.

On March 27, 2008, EPA, under the Bush Administration, published in the Federal Register primary and secondary NAAQS for ozone. EPA established a new primary NAAQS for ozone of 0.075 parts-per-million (ppm) using an eight-hour daily averaging time (the eight-hour ozone standard). This standard was at variance with the recommendation of the Advisory Committee for a standard of 0.060-0.070 ppm. An identical secondary standard also was issued. These

NAAQS were appealed to the U.S. Court of Appeals for the D.C. Circuit (D.C. Circuit). Some parties to the appeal claimed that the standards were too stringent, and some parties claimed that they were too lenient. When the Obama Administration assumed office, EPA requested that the D.C. Circuit hold the appeal in abeyance while EPA officials appointed by the Obama Administration reviewed the 2008 standards.

In September 2009, EPA advised the D.C. Circuit that it would reconsider the 2008 NAAQS for ozone and would propose revised standards through a new Notice of Proposed Rulemaking (NOPR). EPA proposed to issue a NOPR by December 21, 2009, and to issue a final rule by August 31, 2010. In October 2009, EPA requested a continued abeyance of the appeal pending completion of the new rulemaking proceeding. The court granted a continued abeyance in January 2010.

Overview of Rulemaking

On January 6, 2010, EPA proposed to revise the NAAQS for ground-level ozone to the level initially proposed by the Advisory Committee. The proposed rule would strengthen the primary eight-hour ozone standard to a level within the range of 0.060-0.070 ppm. EPA also proposed to establish a distinct cumulative, seasonal secondary standard. The secondary standard would be based on a cumulative peak-weighted index (the W126 index). The proposed secondary standard is designed to protect against the adverse effects of ozone during the three months when daytime ozone concentrations are the highest.

When it issued the proposed standards, EPA anticipated the issuance of final standards by August 31, 2010. EPA also proposed a timeline for implementation of final standards under which the states, by December 2013, would file State Implementation Plans (under Section 110 of the CAA) that would outline how the states would reduce pollution to meet the new standards. The states would be required to meet the new primary standard under deadlines that would begin in 2014 and end in 2031; precise deadlines would vary and depend on the severity of pollution.

Current Status

On July 11, 2011, EPA submitted a proposed final ozone rule to OMB for review. In August, the President directed OMB to return the rule to EPA without his approval. EPA plans to conduct its regularly scheduled review of the ozone standard beginning in 2013 with final action not anticipated before late 2014 at the earliest.

Please note: This document is current only as of the date listed below.