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U.S. Environmental Protection Agency Clean Air Scientific Advisory Committee: Ozone National Ambient Air Quality Standards Recommendation

06/13/2023

The United States Environmental Protection Agency ("EPA") Clean Air Scientific Advisory Committee ("CASAC") transmitted a June 9th letter to Administrator Michael S. Regan addressing:

CASAC Review of the EPA's Policy Assessment (PA) for the Reconsideration of the Ozone national Ambient Air Quality Standards (External Review Draft Version 2) ("Letter")

The CASAC was established under the Clean Air Act Amendments of 1977 to provide independent advice to the EPA Administrator on the technical bases for National Ambient Air Quality Standards ("NAAQS").

Sections 108 and 109 of the Clean Air Act require EPA to identify air pollutants utilizing certain criteria and set NAAQS for each. Ozone is one of the six air pollutants currently designated as a criteria air pollutant and subject to NAAQS. Section 109 requires that EPA promulgate primary NAAQS for the pollutants identified under Section 108.

Section 109(b)(1) defines a primary standard as one "the attainment and maintenance of which, in the judgment of the Administrator, based on the criteria and allowing an adequate margin of safety, are requisite to protect the public health." The margin of safety requirement addresses the uncertainties associated with the inconclusive scientific and technical information available, as well as to provide a reasonable degree of protection against the adverse effects that may not have been discovered.

Section 109(d)(1) of the Clean Air Act mandates a periodic review of each NAAQS. Depending on the results of the review, EPA must determine whether the existing air quality criteria and NAAQS must be revised. EPA's review of the ozone NAAQS is an example of this review process.

The CASAC recommends (with the exception of one member) that EPA strengthen the NAAQS from its current level of 70 parts per billion to a range between 55 and 60 parts per billion.

The Letter notes in part:

. . . All of the CASAC members, except for one, conclude that the scientific evidence indicates that the level of the current primary standard is not sufficiently protective of public health. CHE studies demonstrate adverse effects in healthy adults near or below the current standard of 70 ppb.

The Letter also provides in part:

. . . All of the CASAC members, except one, recommend a revised NAAQS level in the range of 55 to 60 ppb to be protective of public health. This scientific judgement is based on consideration of all of the scientific evidence, including CHE studies, epidemiological studies, and animal studies, and considering the need to protect children, people with asthma, outdoor workers, and other at-risk populations. The CASAC acknowledges that the choice of a level within the scientifically recommended range is a policy judgment, and that the lower end of the range would offer more of a margin of safety and the upper end of the range would provide less of a margin of safety.

The CASAC recommendation is not legally binding. However, it will presumably need to be taken into consideration, especially when one or more parties inevitably challenge either EPA's failure to revise the NAAQS or its decision to tighten the NAAQS.

A copy of the Letter can be downloaded [here](#).