

October 9, 2007

Air Docket
U.S. Environmental Protection Agency
Attention Docket ID No. EPA-HQ-OAR-2005-0172
Mail Code: 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

To Whom It May Concern:

The National Association of Clean Air Agencies (NACAA) is pleased to submit the attached comments on the U.S. Environmental Protection Agency's (EPA's) Proposed Rule to Revise the National Ambient Air Quality Standards (NAAQS) for Ozone ("proposed ozone NAAQS"), as published in the *Federal Register* on July 11, 2007 (72 *Federal Register* 37818). NACAA is an association of air pollution control agencies in 53 states and territories and over 165 metropolitan areas across the country.

NACAA commends EPA for proposing to set a more stringent primary ozone NAAQS to protect public health. Ozone exposure is linked to myriad adverse health effects, including premature mortality in people with heart and lung disease, and recent evidence shows that the adverse health effects occur at concentrations lower than the current standard. Although we appreciate EPA's proposal to tighten the standard, we nevertheless have some significant concerns with the agency's proposal:

- EPA's proposed range of levels—0.070 to 0.075 parts per million (ppm)—for the primary standard falls outside that recommended unanimously by EPA's Congressionally chartered body of independent scientific advisers, the Clean Air Scientific Advisory Committee (CASAC), coinciding only at CASAC's upper bound. In determining the levels "requisite" to protect public health and welfare, NACAA strongly believes that EPA should follow the science—the learned, informed advice of CASAC.
- We question why EPA is considering retaining the current primary standard of 0.084 ppm when, in CASAC's view, "there is no scientific justification for retaining the current primary 8-[hour] NAAQS."¹

¹ Dr. Rogene Henderson, CASAC Chair, Letter to the Honorable Stephen L. Johnson regarding CASAC's Peer Review of the Agency's 2nd Draft Staff Paper, (Oct. 24, 2006) at 1.

Similarly, with respect to the secondary standard, NACAA is pleased that EPA has proposed a distinct, cumulative seasonal standard. Ozone inhibits photosynthesis, causes visible damage to leaves and reduces agricultural crop yields. A cumulative seasonal standard more directly correlates with the exposure of plants to ozone, since plants are exposed to this pollutant during the entire ozone season. As with the primary standard, EPA's proposal is a step in the right direction but falls short of what science indicates is needed:

- The agency's proposed range for a level extends outside CASAC's range.
- We are troubled that EPA proposed as an alternative making the secondary standard identical to the primary standard, despite agreement among CASAC, ecological experts convened at a 1996 workshop and EPA staff on the need for a distinct, cumulative, seasonal secondary standard to protect vegetation.

We are further concerned that EPA in this proposal, as in the particulate matter NAAQS, is mixing in implementation issues in a rule setting a health-based standard. EPA needs to erect a strong firewall between standard-setting and implementation issues. The Supreme Court in *Whitman v. American Trucking Associations* was very clear that EPA may not consider the cost of implementation in setting the NAAQS.

While EPA should not conflate implementation and standard-setting issues in this rulemaking, whatever decision EPA makes on the level and form of the primary and secondary NAAQS will have a profound impact on the work of state and local clean air agencies. EPA must recognize this, not in setting the NAAQS, but in timely future rulemakings and appropriations requests—by requesting sufficient funds for state and local clean air agencies to carry out work associated with meeting the new NAAQS, providing sufficient infrastructure (such as monitors), issuing timely implementation guidance and adopting national rules that address major sources of ozone precursors. Accordingly, it will be imperative for EPA to work in close partnership with state and local clean air agencies at the appropriate time to address implementation issues and achieve the ultimate goal of public health protection.

We hope you will consider carefully these perspectives and our attached written comments as you proceed with the final rulemaking. If you have any questions, please feel free to contact me at 202-624-7864.

Sincerely,



S. William Becker
Executive Director

Encl.