

Congress of the United States
Washington, DC 20515

December 9, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our qualified support of the U.S. Environmental Protection Agency's (EPA) decision to further delay reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ground-level ozone. While we applaud you for postponing action on the NAAQS standard, we remain gravely concerned with the direction the Agency is headed as well as with the impact of EPA's regulatory policies on jobs and our economy.

The Clean Air Act requires that EPA conduct a review of the NAAQS standard for ground-level ozone every five years. The last review was conducted in 2008, when the public health standard was lowered from 0.084 parts per million (ppm) to 0.075 ppm. In January 2010, EPA proposed lowering the standard to within the range of 0.060-0.070 ppm. Depending on where the level is set, EPA estimates the economic costs of a new standard could reach \$90 billion, while private studies show costs far exceeding this estimate. Those same studies show that EPA's revision could cost thousands of jobs.

No matter what point in the 0.060 to 0.070 ppm range EPA ultimately chooses, the number of so-called "non-attainment" areas will dramatically increase nationwide. Based on 2008 air quality data, a standard of 0.065 ppm would create 608 new non-attainment areas, while a standard of 0.070 ppm would create 515.

A nonattainment designation is akin to posting a "closed for business" sign on a local community. Non-attainment can mean loss of industry and economic development, including plant closures; loss of federal highway and transit funding; increased EPA regulation and control over permitting decisions; increased costs for industrial facilities to implement more stringent controls; and increased fuel and energy costs.

At the time of its proposal last year, EPA admitted that it would not be considering any new scientific studies in revising the previous standard; instead it would merely reconsider the evidence that the Agency relied on in 2008. Now, as you wrote recently, EPA will be conferring with the Clean Air Scientific Advisory Committee (CASAC) to better understand the relevant scientific evidence.

This is a positive step, but not the end of the matter. The Clean Air Act very clearly states that EPA is not bound by CASAC's recommendations. Therefore EPA must do more. We urge you to conduct an open, transparent process that allows for robust public participation in EPA's ultimate decision. This means, in part, considering the full range of scientific studies and information, including considering studies, and interpretations of studies, that the agency may disagree with. It also means providing for a meaningful public comment period, in which stakeholders can contribute additional studies, as well as their knowledge and expertise.

In our respective roles on the committees of jurisdiction over EPA, we are fully committed to conducting vigorous oversight on this matter, including ensuring that EPA conducts an open, transparent, and fair process. In the coming weeks, we will be sending you a number of technical questions about your interactions with CASAC—and the quality and rigor of the science the agency is reviewing.

Jobs are at stake, and the uncertainty arising from this and many other regulations emerging from EPA is paralyzing business investment and expansion. For these and other reasons it is imperative that your decision is well-grounded and scientifically defensible. We look forward to your full participation and compliance with our requests.

If you have any questions, please contact our staffs at 202-225-3761 (Upton) or 202-224-6176 (Inhofe).

Sincerely,



Fred Upton
Chairman-elect
House Energy and Commerce Committee



James Inhofe
Ranking Member
Senate Committee on Environment and Public
Works