



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 13 2011

The Honorable Thomas R. Carper
United States Senate
Washington, D.C. 20510

THE ADMINISTRATOR

Dear Senator Carper:

Thank you for your letter of July 11, 2011, regarding the U.S. Environmental Protection Agency's reconsideration of the 2008 National Ambient Air Quality Standard (NAAQS) for ground-level ozone, which is commonly known as "smog." I appreciate the opportunity to clarify why the Agency is undertaking a reconsideration of the 2008 standard, which had been set by the previous Administration.

For more than 40 years, the Clean Air Act (CAA) has protected Americans against diseases from air pollution – guarding the public by setting national health standards based on the best science. The review of the ozone standard every five years, as demanded by the Clean Air Act, is particularly vital. Ozone is among the most widespread and stubborn air pollutants. It contributes to the smog which can shroud U.S. cities, fields and canyons. It is responsible for tens of thousands of visits to emergency rooms by Americans each year for serious bronchial conditions, including asthma. It is hardest on the breathing of the very old and the very young, but it can affect everyone. It is responsible for millions of lost days of school due to illness and damages vegetation in the United States -- an estimated \$500 million in reduced crop production each year.

The CAA sets up a two-step process for addressing unhealthy levels of six different air pollutants, including ozone. The first step is setting ambient air quality standards, which is the science-based step. The second step is reducing pollution levels to meet the standards; cost and other factors are considered in this step. Ozone pollution, or smog, is commonly associated with aggravated asthma attacks, but it also contributes to thousands of premature deaths a year, and millions of lost work and school days.

In setting the health-based ambient standards, Congress required EPA to review the best available science every 5 years and, if appropriate, revise the ambient standards to a level requisite to protect human health with an adequate margin of safety. The CAA requires that this standard setting be based solely on science. Since science is the cornerstone of all of our actions, we rely on the work of an independent, Congressionally-established body, the Clean Air Science Advisory Committee (CASAC), to review the work of the Agency health scientists and provide recommendations to the Agency on where protective standards ought to be set. This group is made up of wholly independent expert scientists, public health officials and other similar experts.

In the 2008 standard-setting process, the CASAC submitted recommendations to the Agency that a protective standard for ground-ozone would be appropriate within the range of 0.060-0.070 parts per million (ppm). However, the Bush EPA set the standard outside of the CASAC-recommended range, at 0.075 ppm. Based on arguments that the 0.075 ppm designation was "arbitrary and capricious" because it was not consistent with the recommendations of CASAC, the Bush-era EPA's decision was immediately challenged in court.

The legal defensibility of the 2008 decision posed major challenges for the Federal Government given the strength of the scientific record at the time, the weakness of the 2008 ozone decision in light of that scientific record and the requirements of the CAA, and other factors. Were the standard to be overturned in court, it would have resulted in more financial and planning uncertainty for Cities and States, when they could afford it the least.

Upon my confirmation as EPA Administrator, I had to choose between defending the Bush-era ozone standard in court or agreeing to reconsider the 2008 designation. I decided that reconsideration was the appropriate path based on concerns that the 2008 standards were not legally defensible given the scientific evidence in the record for the rulemaking, the requirements of the Clean Air Act and the recommendation of the CASAC. This reconsideration will be based on the scientific record that was the basis for the 2008 standard.

I am committed to working with states and local areas to provide healthy air to all Americans by identifying cost-effective implementation solutions to meet any revised standards. There is much flexibility in the Clean Air Act that EPA can build into implementation of the reconsidered ozone standard, and I recognize that this flexibility will be critical to states working under constrained resources to continue economic development and job growth.

As history has shown us, this flexibility will minimize the costs associated with updating the standard. In 1997, for instance, the Agency heard claims about excessively high costs and unreasonable burdens associated with meeting the standards we set at the time ozone and particulate matter. Critics said that the new EPA standards would result in banning barbecues, fireworks and antique cars, and have other serious effects on our society and that they would cost tens of billions of dollars a year and that many areas would never be able to attain the standards. In reality, it has cost a fraction of that amount, and the vast majority of areas around the country now meet those standards, or will as a result of the Cross-State Air Pollution Rule that we finalized last week.

Again, I thank you for your leadership and your inquiry. Should you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Jackson', with a long horizontal flourish extending to the right.

Lisa P. Jackson