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October 8, 2007

VIA FIRST CLASS MAIL AND E-MAIL PDF

EPA Docket Center
Environmental Protection Agency
Mail Code 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Docket ID No. EPA-HQ-OAR-2005-0172; 2007 Revisions to Ground-Level Ozone Standards

To Whom It May Concern:

Please accept this letter as the Group Against Smog and Pollution's, Inc. ("GASP") comments on the proposed revisions to the national ambient air quality standard ("NAAQS") for ground-level ozone. This letter acts to supplement, not replace, the verbal testimony given by GASP on August 30th in Philadelphia, Pennsylvania. GASP sincerely appreciates the opportunity to present our belief that the current standard must be significantly strengthened in order to protect public health with an adequate margin of safety. In support of that belief, GASP makes the following comments and recommendations:

1. Ground-level ozone is a detriment to human and ecological health. We are all affected by ozone pollution. Ozone is a potent oxidant that can burn our lungs and airways, and its numerous health effects include reduced lung capacity; shortness of breath; coughing; wheezing; chest pain; inflammation and damage to the lining of the lungs; increased asthma attacks; increased medication use; increased hospitalizations; and even premature death.[1] Numerous studies show that the populations most at risk include children, the elderly, people who work outdoors, people who exercise outdoors, and those with chronic lung disease.[2] The vast majority of Americans fall into one of these categories or know someone who does. Ozone also negatively affects the environment by interfering with some plants' ability to store food, by damaging leaves, and by reducing crop yields and

[1] U.S. Environmental Protection Agency, *Smog – Who Does It Hurt*, http://www.epa.gov/air/ozonepollution/pdfs/smog.pdf, at 2 (last visited Oct. 3, 2007); American Lung Association, *The Case for a Stronger Ozone Standard*, http://www.cleanairstandards.org/wp-content/uploads/2007/01/case-for-a-stronger-ozone-standard.pdf, at 6 (last visited Oct. 3, 2007).
[2] *Smog – Who Does It Hurt*, at 3.

forest growth.[3] Furthermore, the Environmental Protection Agency ("EPA") has categorized ozone as a "potent greenhouse gas"[4], and climate change affects us all. For all of these reasons, it is clear that ozone pollution is a detriment to every American.

2. Retaining the current standard is not justified by applicable law or science. The Clean Air Act requires that NAAQS be established for each "criteria" pollutant to protect public health with an adequate margin of safety.[5] The Clean Air Act also requires that the scientific basis for NAAQS be revisited periodically to ensure that the standard is truly protective of public health.[6] That periodic review is conducted by the statutorily-mandated, independent Clean Air Scientific Advisory Committee ("CASAC").[7] In the process of reviewing the most recent scientific evidence of the effects of ozone exposure, the CASAC specifically found that the current standard of 0.08 parts per million ("ppm") is not justifiable and does not protect public health with an adequate margin of safety.[8] The CASAC's recommendations were based on numerous clinical and epidemiological studies showing adverse health effects from ozone at ambient concentrations well below the present standard. Some of those studies specifically concluded:

- That adverse health effects resulted in healthy individuals after 6.6- to 8 hour exposures to ozone at 0.08 ppm;
- That infants are at increased risk of respiratory symptoms at ozone levels at or below the current standard;
- That children and asthmatics are at an increased risk of being especially sensitive to ozone exposure;
- That ozone worsens asthma and may trigger the development of the disease;
- That there is a strong association between ozone exposure and emergency room trips for upper respiratory infections and asthma in children and infants;
- That hospital admissions increase as a result of higher ozone concentrations; and
- That short-term increases in ozone exposure, even at levels below the current standard, heighten the risk of premature death.[9]

These studies clearly indicate that the ground-level ozone NAAQS of 0.08 ppm does not provide protection of public health with an adequate margin of safety. Furthermore, the World Health Organization has recognized the toxicity of ozone at even low concentrations

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[3] U.S. Environmental Protection Agency, *Ground-Level Ozone: Health and Environment*, http://www.epa.gov/air/ozonepollution/health.html (last visited Oct. 8, 2007).
[4] U.S. EPA, *Air Quality Criteria for Ozone and Related Photochemical Oxidants, Vol. 1*, at E-32 (February 2006).
[5] 42 U.S.C. § 7408(b)(1).
[6] 42 U.S.C. § 7408(d)(1).
[7] 42 U.S.C. § 7408(d)(2)(A)-(B).
[8] Letter from Dr. Rogene Henderson, Chair, Clean Air Scientific Advisory Committee, to Stephen L. Johnson, Administrator, U.S. EPA (Oct. 24, 2006) (Re: Clean Air Scientific Advisory Committee's Peer Review of the Agency's Second Draft Ozone Staff Paper).
[9] *The Case for a Stronger Ozone Standard*, at 2-6 (Summarizing the results of ozone-related studies).

by revising their ozone guideline standard to the equivalent of 0.051 ppm.[10] Also, after an independent review of the ozone standard, the California Air Resources Board instituted a new ozone standard of 0.070 ppm.[11] Cumulatively, these many studies and independent scientific reviews plainly establish that retention of the current ozone NAAQS is neither scientifically nor legally justified.

3. <u>The primary standard should be set at 0.060 ppm.</u> Based on the recommendations of the CASAC, the results of the numerous scientific studies outlined above, the air quality guidelines of the World Health Organization, and the legal standards established by the Clean Air Act, GASP strongly urges that the EPA adopt a new ozone primary NAAQS set at 0.060 ppm. The CASAC unanimously recommended that the new standard be set between 0.060 ppm and 0.070 ppm.[12] Despite this clear guidance from its statutorily-mandated scientific review panel, the EPA has chosen to accept comments on retaining the current standard, revising the standard to 0.075 ppm, or revising the standard to 0.070 ppm.[13] Of the three options, GASP can only endorse the later standard of 0.070 ppm as being minimally protective of public health. Current scientific understanding of the effects of ozone exposure indicates that in order to protect public health with an adequate margin of safety a standard of 0.060 ppm must be adopted. For instance, the CASAC cited a recent study showing adverse lung function effects at 0.060 ppm, which illustrates that a standard set at a higher concentration would not be sufficiently protective of public health.[14] As such, GASP advocates that the EPA adhere to the Clean Air Act's mandated "adequate margin of safety" by promulgating 0.060 ppm as the new ozone primary NAAQS.

4. <u>The rounding "loophole" should be abandoned.</u> GASP also urges that the EPA establish the NAAQS to the third decimal point, thereby eliminating the "rounding loophole" that effectively sets the current standard at 0.085 ppm. The CASAC reported that present ozone monitoring devices are capable of precise measurements to the third decimal place (on a parts per million scale); therefore, any new standard should reflect that precision.[15]

5. <u>The secondary standard should conform to the recommendations of the CASAC.</u> The EPA has also proposed to alter the secondary standard for ozone to one that takes into account plant ozone exposure over the course of a growing season.[16] The CASAC endorsed this concept and specifically recommended that the secondary ozone NAAQS be set between the range of 7.5 ppm-hours and 15 ppm-hours.[17] In their proposed rule, the EPA

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[10] World Health Organization, *WHO Air quality guidelines for particulate matter, ozone, nitrogen dioxide and sulfur dioxide, Global update 2005, Summary of risk assessment*, http://whqlibdoc.who.int/hq/2006/WHO_SDE_PHE_OEH_06.02_eng.pdf, at 14 (last visited Oct. 5, 2007).
[11] California Air Resources Board, *Ozone and Health*, ftp://ftp.arb.ca.gov/carbis/research/aaqs/caaqs/ozone/ozone6.pdf, at 4 (last visited Oct. 5, 2007).
[12] Letter from Dr. Rogene Henderson to Stephen L. Johnson (Oct. 24, 2006), *supra* note 8, at 2; Letter from Dr. Rogene Henderson, Chair, Clean Air Scientific Advisory Committee, to Stephen L. Johnson, Administrator, U.S. EPA (March 26, 2007) (Re: Clean Air Scientific Advisory Committee's Peer Review of the Agency's Final Ozone Staff Paper), at 2.
[13] National Ambient Air Quality Standards for Ozone, 72 Fed. Reg. 37818 (July 11, 2007) (to be codified at 40 C.F.R. pt. 50).
[14] Letter from Dr. Rogene Henderson to Stephen L. Johnson (Oct. 24, 2006), *supra* note 8, at 3.
[15] Id at 5.
[16] National Ambient Air Quality Standards for Ozone, 72 Fed. Reg. at 37818.
[17] Letter from Dr. Rogene Henderson to Stephen L. Johnson (March 26, 2007), *supra* note 12, at 3.

again departed from the CASAC's suggestions by recommending an upper range of 21 ppm-hours.[18] GASP feels that the EPA should follow the scientific guidance of the CASAC by adopting a secondary ozone NAAQS within the CASAC's recommended range.

6. Economics should not be a consideration in determining the new standard. In promulgating the final rule, GASP urges the EPA to not take into account the costs of lowering the ozone NAAQS to a level protective of public health with an adequate margin of safety. In *Whitman v. American Trucking Association*, the U.S. Supreme Court held that the consideration of costs in establishing a NAAQS was a clear violation of the plain language of the Clean Air Act.[19] By proposing to set the standard at 0.070 ppm or higher, GASP fears that the EPA is taking into account the costs of setting the standard at 0.060 ppm, the level at which GASP feels would protect the public health with the requisite margin of safety. GASP points out the holding of *American Trucking* in the hopes of preventing such cost considerations in establishing the ozone NAAQS.

The foregoing paragraphs outline GASP's reasons for urging the adoption of a more stringent ozone NAAQS, and we thank the EPA for the opportunity to participate in this rulemaking process. If you should have any questions concerning our comments, please do not hesitate to contact me at the above address or telephone number.

Sincerely,

/s/ Michael A. Parker, Esq.
Policy and Outreach Coordinator

MAP

[18] National Ambient Air Quality Standards for Ozone, 72 Fed. Reg. at 37818.
[19] *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457, 465 (2001).