

# Ozone/Clean Air Act: U.S. Environmental Protection Agency Proposes to Retain Current National Ambient Air Quality Standard



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The United States Environmental Protection Agency (“EPA”) has proposed a rule that would retain the current ozone National Ambient Air Quality Standard (“NAAQS”).

This would leave in place the ozone NAAQS that was promulgated during the Obama Administration in 2015.

The Clean Air Act requires that EPA periodically review each NAAQS to determine, based on evolving science, etc., if it should be revised.

Ozone is an irritant gas. It is not emitted by any particular source and is, therefore, a secondary air pollutant. The air pollutant is formed in the atmosphere in the presence of sunlight and heat from other precursor air pollutants including nitrogen oxide and hydrocarbons. The photochemical reactions can vary because they are initiated by natural conditions such as sunlight and temperature which can, obviously, change. As a result, the rate of formation can differ on an hourly, daily, or seasonal basis.

Ozone was designated many years ago pursuant to the Clean Air Act 108/109 NAAQS review process as a criteria air pollutant. Once an NAAQS is established, the states are required to develop and implement state implementation plans to ensure that its air quality control regions meet the NAAQS. As a result, once EPA has established a NAAQS, each state is required to formulate, subject to EPA approval, State Implementation Plans (“SIPs”) designed to achieve each standard. The SIPs will contain the measures and actions the state proposes to undertake to attain each NAAQS.

A change in a NAAQS may require a revision in the SIP. The SIPs and/or revisions must be adopted pursuant to public notice and hearing and include various substantive requirements.

In 2017 EPA noted that Arkansas was in attainment state-wide with the 2015 ozone NAAQS. Crittenden County had previously been designated non-attainment for this NAAQS. However, in 2016 EPA finalized a rule that redesignated Crittenden County as compliant with the ozone NAAQS.

EPA states that its decision to retain the current NAAQS has been formed by:

. . . key aspects of the currently available health effects evidence and conclusions contained in the ISA, quantitative exposure/risk analyses and policy evaluations presented in the PA, advice from the CASAC and public input received as part of this ongoing review. The health effects evidence newly available in this review, in conjunction with the full body of evidence critically evaluated in the ISA, continues to

support prior conclusions that short-term O<sub>3</sub> exposure causes and long-term O<sub>3</sub> exposure likely causes respiratory effects, with evidence newly available in this review also indicating a likely causal relationship of short-term O<sub>3</sub> with metabolic effects.

EPA's decision has been and will be a subject of significant debate.

The National Resources Defense Council stated in a July 13th press release:

. . . instead of this anti-science approach to air pollution, the Trump EPA should tighten the national limit on harmful ozone smog - down to 60 parts per billion. The science is clear, EPA's current limit on ozone air pollution is failing to protect public health. And today 122 million Americans live in areas exceeding this weak standard.

In contrast, the American Chemistry Council stated in a July 13th news release:

We welcome EPA's proposed decision and are pleased that the Agency properly considered the scientific record and the recommendations of the majority of Clean Air Scientific Advisory Committee members to retain the ozone NAAQS at the level of 70 parts per billion (ppb). EPA's decision recognizes the analysis highlighted in the supporting policy and science assessments that the current standards provide a "high level of protection from ozone-related health effects" and that newly available evidence does not call into question the adequacy of the current standards.

A link to the 325-page prepublication Federal Register Notice can be found [here](#).