

Air Quality Standards Implementation Act of 2024: U.S. House of Representatives Passes Legislation Addressing NAAQS Development Process



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The United States House of Representatives passed by partisan vote legislation denominated H.R. 7650 that would amend the Clean Air Act titled:

"Air Quality Standards Implementation Act of 2024" ("Act").

The Act would revise how Clean Air Act National Ambient Air Quality Standards ("NAAQS") are promulgated and implemented.

Section 108 of the Clean Air Act has required since the statute's enactment in 1970 that the United States Environmental Protection Agency ("EPA") identify air pollutants that impact public health. EPA is then required to establish a NAAQS for those air pollutants. Six NAAQS (designated criteria air pollutants) have been established since 1970.

Section 109(d)(1) of the Clean Air Act mandates a periodic review of each NAAQS. Depending on the results of the review, EPA must determine whether the existing air quality criteria and NAAQS must be revised. In establishing a NAAQS, the Clean Air Act has been interpreted to exclude consideration of cost and related economic issues.

Specifically, Section 109(b)(1) defines a primary standard as one "the attainment and maintenance, in the judgment of the Administrator, based on the criteria and allowing an adequate margin of safety, a requisite to protect the public health." The margin of safety requirement addresses the uncertainties associated with the inconclusive scientific and technical information available, as well as to provide a reasonable degree of protection against the adverse effects that may have not been discovered.

The states are then primarily responsible pursuant to Section 110 of the Clean Air Act for ensuring attainment and maintenance of a NAAQS once EPA has established or revised them. Each state is then required to formulate, subject to EPA approval, an Implementation Plan (i.e., "SIP") designed to achieve each NAAQS.

The SIPs will contain the measures and actions that the state proposes to undertake to attain each NAAQS. These measures or actions must be enforceable through state regulations that typically include emission limits applicable to certain types of stationary sources.

EPA's recent review of the PM and PM2.5 NAAQS is an example of the periodic review process. EPA has finalized a rule to tighten the level of PM2.5 standard to 9.0 micrograms per cubic meter. The previous PM2.5 standard was 12.0 micrograms per cubic meter.

This NAAQS revision has generated conflicting responses.

A number of industries and states argue that attempts to attain NAAQS will result in significant economic impacts. Other states and environmental groups assert that the revisions are necessary to protect public health.

As to the Act, environmental organizations have argued that it ignores current science and lengthens the time it takes between establishing NAAQS (or revisions).

An example of a change proposed by the Act would be the required additional consideration of "social, economic, or energy effects". Language would be added to Section 109(d)(2) which states:

...Prior to establishing or revising a National Ambient Air Quality Standard, the Administrator should request, in such a committee, after receiving public comments, shall assess and provide advice under Subparagraph (C)(iv) regarding an adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such National Ambient Air Quality Standard.

An additional example is a revision to the Section 110 Federal Implementation ("FIP") Process. EPA is required to give a state at least one year after a finding of disapproval of a SIP revision to correct the deficiency.

Language also addresses "exceptional events". Exceptional events reference natural events such as wildfires which can contribute to violation of a NAAQS. This has been a particular concern in the case of PM2.5.

A copy of the Act can be downloaded [here](#).