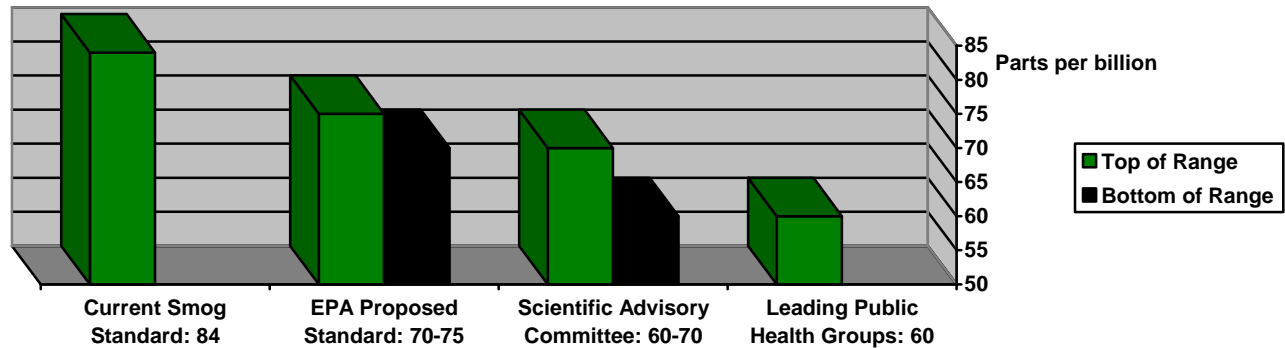




Urge EPA to Issue a Science-Based Smog Rule

EPA's Clean Air Scientific Advisory Committee: "There is no scientific justification for retaining the current [standard]." It "needs to be substantially reduced to protect public health."



The Clean Air Act Requires a Science-Based Smog Standard

Under the Clean Air Act, the Environmental Protection Agency (EPA) is responsible for promulgating National Ambient Air Quality Standards (NAAQS) that "protect public health" with "an adequate margin of safety."¹ Every five years, the EPA must revise those standards, taking into account the latest science on the effects of ozone pollution on public health and the environment.² The Supreme Court has held that in setting or revising NAAQS EPA cannot consider implementation costs, only health impacts.³

In 2003, Earthjustice, representing several environmental and public health groups, brought litigation challenging the U.S. Environmental Protection Agency's delay in adopting revised NAAQS for ozone, or smog pollution. This litigation resulted in a consent decree requiring EPA to issue a final rule by March 2008.

In June 2007, EPA proposed strengthening the standard from the current level of 80 parts per billion (ppb) to between 70 and 75 ppb. EPA also said it would accept comment on retaining the current standard, which allows smog levels to reach 84ppb because of a rounding loophole.⁴

Scientists and Health Groups Call for a Standard of 60 to 70 ppb

EPA's Clean Air Scientific Advisory Committee—an independent board of 23 scientists that advise EPA on latest research and scientific findings—found that the current standard for ozone is not strong enough to protect public health. The committee unanimously recommended that EPA set the ozone standard at 60 to 70 ppb.⁵

EPA's Children's Health Advisory Committee went a step farther and recommended setting the standard at 60 ppb, citing children's sensitivity to smog.⁶ Experts on lung health, including the American Thoracic Society and the American Lung Association, have also called for a standard of 60 ppb in light of recent studies showing adverse effects at levels as low as 60 ppb.⁷

Background

Smog is the most widespread outdoor air pollutant in the United States. It forms when volatile organic compounds (VOCs) and nitrogen oxide (NOx) emissions from vehicles, power plants, and certain industries react with heat and sunlight. Smog pollution is a powerful irritant that burns our lungs and airways, causing them to become inflamed and swollen. According to the American Lung Association, more than one third of the U.S. population, or roughly 99 million people, live in areas with unsafe smog levels.⁸ Children and the elderly are most susceptible, but even healthy adults have shown adverse health effects at smog levels presently allowed by EPA.⁹

EPA's own analysis of costs and benefits of the proposed NAAQS shows that strengthening the standard to 65 ppb could prevent as many as 9,200 premature deaths by 2020.¹⁰

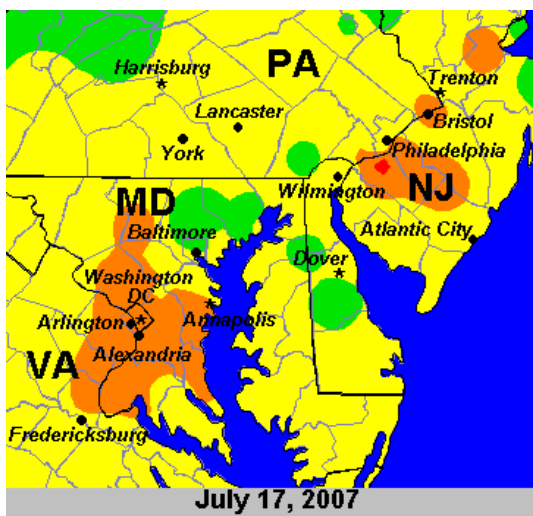
Win-Win Solutions

A strong smog rule would encourage implementation of policies that will have energy, economic, and national security benefits. The U.S. can reduce smog pollution by making automobiles go farther on a gallon of gas, making homes and businesses more energy efficient, and switching to clean fuels like wind, solar, and sustainable biofuels. In addition to reducing smog and the health care costs associated with pollution, these win-win solutions will save consumers money, create jobs, address global warming and reduce dependence on oil.

Earthjustice Urges Congress to Support and the EPA to Set a Science-based Smog Standard

Congress should call on the EPA to heed the mandate of the Clean Air Act to set air standards that protect public health. As recent research and the recommendations of the Children's Health Protection Advisory Committee, the American Lung Association, and the American Thoracic Society show, a smog standard of 60ppb is necessary to adequately protect public health and the environment.

EPA will accept written comments until October 9th, 2007, and will receive public testimony at hearings in Philadelphia and Los Angeles on August 30, 2007 and in Atlanta, Chicago, and Houston on September 5, 2007.



This picture, from July 17, 2006, for the Mid-Atlantic region, illustrates one of the worst air quality days of that year. Smog measurements reached unhealthy levels and active children and adults, and people with respiratory diseases such as asthma, were warned to limit prolonged outdoor activities. The orange areas indicate that ozone levels had reached above 100 on the Air Quality Index, a measurement to determine what local air quality means to our health.

For More Information

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¹ Clean Air Act § 109(b); 42 U.S.C § 7409 (b).

² CAA § 109(d)(1); 42 U.S.C § 7409 (d)(1).

³ *Whitman v. American Trucking Associations*, 121 S. Ct. 903 (2001).

⁴ National Ambient Air Quality Standards for Ozone, Proposed Rule, 40 C.F.R. Part 50, July 11, 2007.

⁵ Letter from Dr. Rogene Henderson, Chair, Clean Air Scientific Advisory Committee to Stephen L. Johnson, Administrator, U.S. EPA, re CASAC's Review of the Agency's Final Ozone Staff Paper, EPA-CASAC-07-002, March 26, 2007.

⁶ Letter from Dr. Melanie A. Marty, Chair, Children's Health Protection Advisory Committee, to Stephen L. Johnson, Administrator, U.S. EPA, re Review of the NAAQS for Ozone, March 28, 2007.

⁷ American Lung Association, *EPA Must Set a Much Stronger Ozone Air Quality Standard*, Fact Sheet, August 1, 2007 ; American Thoracic Society, *EPA Ozone Pollution Standards "Unhealthy for America," Says American Thoracic Society President*, Press Release, June 2007, available at <http://www.thoracic.org/sections/publications/press-releases/other/articles/epa-ozone-pollution-standards.html>

⁸ American Lung Association, *State of the Air 2007*, available at http://lungaction.org/reports/sota07exec_summ.html

⁹ Delfino RJ, Murphy-Moulton AM, Becklake MR. Emergency Room Visits for Respiratory Illness among the Elderly in Montreal: Association with Low Level Ozone Exposure. *Environ Res* 1998; 76 (Section A): 67-77.

¹⁰ EPA, *Regulatory Impact Analysis of the Proposed Revisions to the NAAQS for Ground-level Ozone*, EPA-425/R-07-008, July 2007.