

Improving Kids' Environment

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The Honorable Stephen Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: National Ambient Air Quality Standards for Ozone
72 Fed. Reg. 37818; Docket ID No. EPA-HQ-OAR-2005-0172

Dear Administrator Johnson:

Improving Kids' Environment, Inc. is a nonprofit, advocacy organization based in Central Indiana that works to reduce environmental threats to children's health. We are pleased to provide these comments on the United States Environmental Protection Agency's proposed revisions to the National Ambient Air Quality Standards for ozone.

Setting National Ambient Air Quality Standards is one of the most important decisions U.S. EPA makes in furtherance of its mission to protect the public health of all Americans from the injury and disease that air pollution can cause. The mechanism Congress established in Section 109 of the Clean Air Act for how those national health standards are set is one of the most fundamental elements of that important legislation. Although ultimately a policy decision of the U.S. EPA Administrator, the law requires that the Administrator appoint an independent scientific review committee to make recommendations regarding new or revised standards. In addition, the Administrator:

1. must set the standard "to protect the public health with an adequate margin of safety,"
2. may not consider the costs of achieving that standard, and
3. must base the final standard on recommendations made after extensive, scientific review of available health studies and other data both by internal U.S. EPA scientists and by a panel of nationally recognized and respected external experts.

IKE supports U.S. EPA's proposal to lower the primary ozone standard in order to protect millions of children in Indiana and nationwide from the adverse health effects of ozone, amply demonstrated

IKE Board of Directors Richard van Frank (*President*), Dr. Bill Beranek (*Vice President*), Dr. Jack Leonard (*Treasurer*),
Dr. Indra Frank (*Secretary*), Sen. Beverly Gard, Dr. John Ellis, Dr. Steve Jay, Dr. Marc Lame, TaNaisha Lee,
Kathryn Watson.

by the studies cited in the proposed rule. However, IKE urges U.S. EPA to propose a primary standard in the 0.060 to 0.070 ppm range instead of the 0.070 to 0.075 ppm range.

The studies that demonstrate the health effects of ozone are numerous and their conclusions are clear. Exposure to ozone at levels below the current standard is clearly associated with aggravated asthma, respiratory illnesses, missed school days and restricted activity for the country's children and youth. Children worried about an asthma attack will be less active, restricting exercise and other outdoor activity, which contributes to obesity—another childhood health concern alarmingly on the rise in Indiana and the country as a whole.

Unhealthy ozone levels, as described by the studies reviewed by CASAC and U.S. EPA, affect Indiana's children significantly. Although all counties met the current standard of 0.84 ppm based on 2004-6 data, two urban areas (northwest Indiana and the counties outside Louisville) reviolated the standard during 2007 and others are very close to that standard. Twenty-six Indiana counties, including the populous Indianapolis, Gary, and Evansville metropolitan areas, have monitored air quality that would exceed U.S. EPA's proposed range for the primary standard. More than 500,000 of the residents of those counties are children, according to the 2006 Indiana Census. In 2002, 15.7% of Indiana households had at least one child who had been diagnosed with asthma. Of those households, 71.8% reported at least one child who currently has asthma, and 10.4% of Hoosier children enrolled in Medicaid in 2004 had been diagnosed with asthma.¹

IKE's specific comments on the proposed regulations are as follows:

1. **The level of the annual standard.** As it did with the fine particulate (PM 2.5) standard, U.S. EPA is proposing to ignore the recommendations of its Clean Air Scientific Advisory Committee (CASAC) in proposing the standard be set at a range of 0.070 to 0.075 ppm—higher than the upper limit recommended by the CASAC of 0.070 ppm. As stated by CASAC, “while data exist that adverse health effects may occur at levels lower than 0.060 ppm, these data are less certain and achievable gains in protecting human health can be accomplished through lowering the ozone NAAQS to a level between 0.060 and 0.070 ppm.”² The CASAC later stated they “were unanimous in recommending that the current level of the current primary ozone standard should be lowered from 0.080 ppm to no greater than 0.070 ppm....”³ The only conclusion that can be reached by the Administrator's decision to substitute his own judgment for that of the CASAC is that this decision is driven more by political and other considerations than by science. This is not the process that Congress established in the Clean Air Act.⁴

¹ Indiana State Department of Health and the Indiana Joint Asthma Coalition, The Burden of Asthma updated December 30, 2004, p. 9. <http://www.in.gov/isdh/programs/asthma/pdfs/BurdenAsthmaIndiana1-24-05.pdf>.

² Dr. Rogene Henderson, CASAC Chair, Letter to the Honorable Stephen L. Johnson regarding CASAC's Peer Review of the Agency's 2nd Draft Staff Paper (Oct. 24, 2006) at 4.

³ Dr. Rogene Henderson, CASAC Chair, Letter to the Honorable Stephen L. Johnson regarding CASAC's Review of the Agency's Final Ozone Staff Paper (March 26, 2007) at 2.

⁴ The State of Indiana has traditionally adopted USEPA's air quality health standards rather than establishing its own. When USEPA proposed revisions to the ozone and fine particle standards in the late 1990s, as Assistant Commissioner for the Office of Air Quality at IDEM, I often explained in public meetings that Indiana relied on USEPA's expertise in setting the standards in large part because of USEPA's reliance on the recommendations of its own technical staff and the independent CASAC.

Ozone is a critical determinant in respiratory symptoms and disease in Indiana and the proposal by the scientific committee must be followed by the U.S. EPA Administrator. IKE recommends that U.S. EPA reconsider the level of the annual standard, and choose a level within the range recommended by the CASAC and the agency's own scientists that will truly meet the requirements of the Clean Air Act to protect the public health.

- 2. The Administrator should not delay revision of the ozone standard.** U.S. EPA specifically asked for comment on whether it should retain the existing standard and delay considering modification until a more complete body of information is available. This request was made in response to letters U.S. EPA received from some Governors, including Indiana's. IKE urges U.S. EPA not to delay revising the standard. The Clean Air Act requires that air quality health standards be reviewed every five years. § 109(d)(1). The ozone standard was last reviewed and revised on the basis of scientific and medical data in 1997.

Revising the standard when the scientific evidence supports revision is a mandate of the Clean Air Act, not a discretionary decision. While IKE is sensitive to the burden placed on state government by the implementation of new standards, and the potential and perceived impacts on state economic development, these issues are more appropriately addressed in implementation, not in the setting of the standard.

Timely revisions to the standard will have immediate effects on public health, because people will gain awareness of the risks of ozone at lower levels and can manage those risks for themselves and their families accordingly. In addition, as our experience with the past revisions of the ozone standard and the fine particulate standard have shown, companies will begin planning air pollution controls often in advance of the deadlines associated with implementation. For example, the major nitrogen oxides reduction program, known as the NO_x SIP Call, which was adopted to address ozone pollution, spurred reductions in NO_x in advance of the deadlines and in greater amounts than required by law, with the result that Indiana achieved ozone compliance with the 1997 standard in all counties years in advance of the NAAQS deadline.

U.S. EPA should follow the mandate of the Clean Air Act and move promptly to revise the ozone health standard.

- 3. The Air Quality Index (AQI).** U.S. EPA specifically asked for comment on whether the Air Quality Index should be revised in conformity with the new ozone standard at the time the ozone standard is finalized. IKE strongly supports revising the AQI at the same time the standard is finalized. Daily decisions for managing health risks are made by the public based on the AQI. When U.S. EPA revised the fine particulate standard without revising the AQI concurrently, it created confusion. Some states, including Indiana, did not change their air quality forecasts with the change to the PM_{2.5} NAAQS, preferring to wait until U.S. EPA revised the AQI through a lengthy rulemaking. On the other hand, some cities, such as Evansville, used the revised PM_{2.5} standard to make its air quality predictions, with the result that different agencies were calculating the AQI differently, causing confusion for the public. In some instances, IDEM forecast air quality in the moderate range, using the "old" AQI, when in fact air quality did not meet the new standard. That meant that Air Quality Action Days and Alerts were not issued when they should have been. It is critical for public health, particularly given the CASAC's conclusion that "it is possible there is no threshold

for an O3-induced impact on human health...,”⁵ that the public be appropriately informed of health risks associated with air quality in order to manage their own responses. The AQI has become the standard and publicly recognized tool for this task.

IKE appreciates this opportunity to provide comments on this incredibly important public health issue. We urge U.S. EPA to consider seriously all the thoughtful and well-supported input it will get on this decision and adopt a revised ozone standard that will truly protect the public health.

Very truly yours,



Janet G. McCabe
Executive Director

cc: IKE Board
IKE Advisory Board

⁵ Dr. Rogene Henderson, CASAC Chair, Letter to the Honorable Stephen L. Johnson regarding CASAC’s Peer Review of the Agency’s 2nd Draft Staff Paper (Oct. 24, 2006) at 5.