

EPA's Information Demonstrates Its Proposed Ozone Standard Is All Costs and No Benefits

Key Points:

- EPA health study analysis is flawed
- The greatest health impacts will occur in the most populated nonattainment areas
- EPA concludes that the most populated nonattainment areas will fail to meet the proposed Ozone National Ambient Air Quality Standard (NAAQS) – therefore, no health benefits will occur because the regulatory requirements will be no different from the current NAAQS
- EPA concludes that national, federally mandated requirements will bring the remaining areas of the country into attainment with the proposed Ozone NAAQS
 - These areas will be subjected to burdensome, costly, additional regulatory requirements for no health benefits
- EPA should retain the current Ozone NAAQS and develop cost effective programs – if any exist – for the enduring nonattainment areas

Flawed Health Study Analysis – In 2011, when the EPA proposed a 70 ppb standard, its median "net benefits" estimate for a 65 ppb standard was only \$700 million, with a high possibility that the costs could outweigh any benefits. But in 2014, the EPA changed its mind, claiming net benefits of a lower ozone standard are now as high as \$23 billion – a *3,100 percent increase in net benefits for the exact same standard*. In its "[Ozone and Health](#)" fact sheet, the EPA says it "examined thousands of scientific studies" before proposing the new rule, including "more than 1,000 new studies published since EPA last revised the standards in 2008." Simply put, the agency is arguing that new scientific research justifies a lower threshold. But the fact sheet says nothing of the 2011 Regulatory Impact Analysis (RIA), much less the scientific studies that were used to justify its previous claims about benefits and costs. There are 263 reports and studies listed in the reference sections of EPA's final [Health Risk and Exposure Assessment for Ozone](#), which was published in August 2014. But nearly 70 percent of those sources were published prior to 2011, meaning they were part of the broader scientific understanding of ozone when EPA determined the net benefits from a 65 ppb standard were essentially zero. Moreover, many of the sources published during or since 2011 are literature reviews from EPA, which examine research published in previous years.

Health Benefits Will Not Occur Where Needed – EPA has not provided an assessment of the geographical distribution of health benefits from meeting the Ozone NAAQS, but it is logical to conclude that the greatest benefits would occur in the most populous areas.

However, EPA's own analysis shows that the same areas that have failed to meet the 1997 Ozone NAAQS and the 2008 Ozone NAAQS will also fail to meet the proposed NAAQS by 2025 and realistically it seems unlikely any time until well after 2030. *What this means is that EPA's claimed health benefits from the proposed Ozone NAAQS will not occur in these enduring nonattainment areas.*

Equally important, the regulatory requirements in these enduring nonattainment areas will be no different under the proposed NAAQS than they are under the current NAAQS. These areas are subject to regulation under Part D – Plan Requirements for Nonattainment Areas of the Clean Air Act (CAA). Part D was created in the 1990 CAA amendments. The significant impact of Part D is that perpetual nonattainment eventually produces a baseline of regulations and requirements of additional annual percentage reductions. *Since these enduring nonattainment areas have been subject Part D for 25 years, their future regulatory requirements will be the same iterative percentage reductions under the current NAAQS or any new one.*

New Nonattainment Areas Will Have All Costs and No Benefits – EPA has stated in its support documents for its proposed Ozone NAAQS that:

Existing and proposed federal rules...will help states meet the proposed standards by making significant strides toward reducing ozone-forming pollution. EPA projections show the vast majority of U.S. counties with monitors would meet the proposed standards by 2025 just with the rules and programs now in place or under way.

Consequently, these national, federal requirements will essentially protect the overwhelming number of areas which would be placed in Ozone NAAQS nonattainment by a lower NAAQS without any of the local actions that would be required from such categorization.

For these areas that EPA projects would reach attainment using only national, federal mandates regardless of the NAAQS, promulgating a lower NAAQS would compel them to be subject to the requirements of Part D of the Clean Air Act. Because Part D imposes a series of minimum requirements, the proposed NAAQS would impose on those areas emissions controls on new sources, including offsets, which would be burdensome and limit new development, cost ineffective and unnecessary since EPA believes these areas would reach attainment using only its national regulations. Similarly, the Part D requirements could impose on numerous communities the implementation of costly, burdensome and unnecessary vehicle inspection and maintenance programs. And, then, these areas would have to maintain these regulatory burdens for years awaiting EPA to determine that the area is in attainment.

For these areas, EPA's own analysis demonstrates that a lower Ozone NAAQS would be all costs for no added health benefits.

What EPA Should Do – EPA should retain the current Ozone NAAQS because it would be the most cost effective choice for the same health benefits. For two reasons:

1. Because a lower NAAQS would not alter the regulatory requirements in enduring nonattainment areas and would not achieve additional health benefits; and,
2. Because a lower NAAQS is unnecessary to achieve health benefits in other areas according to EPA but would impose unnecessary regulatory costs and burdens,

EPA should direct its attention to developing cost effective – if they exist – measures to reach attainment in the enduring nonattainment areas – those that have failed to meet every Ozone NAAQS since enactment of the Clean Air Act – before it launches a revised and equally unattainable Ozone NAAQS.