

NLWJC - Kagan

Counsel - Box 026 - Folder 001

EPA Standards

Don't think there's anything for us to do on this.

Mike Fitzpatrick

Frankie discusses btw OMB + EPA -
lang of preamble -
kind of comments asked for
how in depth + explicitly are we going
to ask for alternatives -
OMB want's to ask abt specific alternatives.

But not co-propose

Learn mtg at 10:30 -
pre-brief to Carol mtg at 1:00

Prob have to go forward w/
ozone + PM.

OZONE

[Price for putting it out
now - push on language
issues.

Piggly-baching
on back of PM -
where greater danger/
better science

Talking points - seeking
broadest poss range
of views.

- Publish on Friday -

WH has lost control
of various process

Conc'd - need to be WH centred

→ interagency task force to review
comments
or make them give final rule
in lots of time.

CEQ CEA
NEL DRC
OMB OSTP

EPA Air Standards Meeting 11/20/96

DOT - hold off altogether on ozone

On PM - which is completely new stuff that no one knows
how to implement - also hold off.

Meet at deadline by keeping PM 10.

but don't propose 2.5

Treasury -

defer ozone; go forward on PM

even in
just 90
days.

↳ unquestionable health hazard

less health risk

science isn't so good

not enough time to review

even impact

OST -

PM - might to move

Real S: any value in completing ozone -

should have some more time to look

ozone - would it enter us to move forward anyway?

Any 4th option?

CEA - go forward w/ part of ozone - more general standard

EPA - doesn't favor us anything.

Schmidt - deadline Nov.

For maintaining current std wouldn't get
you more time bec it's not the agency's
judgment.

On ozone - if doesn't go on Nov 29
at minimum - you have to have alternate deadline
whether it is / more likely it will agree

What will happen in delay of 10 days?

8K(COIRA) - do normal EO version

Energy - go w/ both (OTA)

demo support for clean air/health

USDA

CEA - with Treasury

Vatic McG - discussion in political vacuum

1. Going to be change in t-luc.

Pol. significance

What benefits to go thru hit twice - now + 90 days

from now

Plan to address once + comprehensively

Tarullo - 90 days may give some
substantive modifications in 90 days

IT Blantner - proposal pub unit change - just
how we describe it

espec rewrite preamble

if can do rewriting in
next few days - let's go.

Okelle - stakes all over place

but mayors/family people will hate this.

DC-agencies consensus?

Go forward w/ both

But make clear that ozone language supports
real openness to comment/review.

Ever &
co-propose

no
change??

The final language - assuming will go forward on 29th

Lois -

if wait 90 days -
(on ozone)

even if not need -

you'll not most of

this time.

6-1647

DRAFT**DRAFT****DRAFT****MEMORANDUM FOR DISTRIBUTION**

FROM: Sally Katzen
SUBJECT: EPA's Ozone and Particulate Matter Standard
DATE: November 18, 1996

Background

The Environmental Protection Agency (EPA) submitted to the Office of Management & Budget (OMB) for Executive Order 12866 review the draft proposed ozone and particulate matter National Ambient Air Quality Standards (NAAQS), and accompanying material, on November 4, 1996. EPA has a court deadline of November 29 for the particulate matter (PM) proposal; there is no court deadline for the ozone proposal. These two draft proposals would establish: (1) primary NAAQS standards to protect human health, with an adequate margin of safety; and (2) secondary standards to protect welfare (visibility, materials damage, ecosystem effects, etc.). The courts have interpreted the Clean Air Act to preclude consideration of cost by EPA in setting the primary standard. EPA, through an advisory committee, is currently developing a set of proposals to implement these new standards, which it expects to propose separately later this Spring. Costs may be considered in the development of new implementation procedures. Based on EPA estimates, these two proposals are "significant" or "major" by any measure.

In a separate exercise from its standard setting process, EPA has estimated that these proposed standards would result in additional costs of \$600 million to \$2.5 billion per year for the ozone standard and \$6 billion per year for the PM standard. For both ozone and PM, these cost estimates do not include the costs of meeting the proposed standards in the 10 to 15 "worst" areas that are having the greatest difficulty in meeting the current ozone and PM standards. For ozone, in particular, EPA's cost estimates exclude any costs of emissions reductions in New York, Los Angeles, San Diego, and Bakersfield, California, because known emission control measures are insufficient to attain even the current ozone standard.

EPA estimates that the proposed PM standard could reduce mortality risk by approximately 3,000 to 20,000 premature deaths per year from respiratory causes. It would also prevent a variety of other adverse respiratory effects. The most important of these are chronic bronchitis and hospital admissions for respiratory ailments. EPA studies have been able to

quantify certain health benefits from the proposed ozone standard, including declines in the number of episodes or incidents involving reduced lung function among children who are active outdoors by tens of thousands per year across the country, and in hospital admissions in New York City by about 100 per year.

OIRA has held several staff level meetings and two meetings at the Assistant Secretary level to discuss these proposals.

Questions and Issues

There has been only a limited amount of time to review almost a foot of materials. EPA has, however, provided briefings to all who have requested them. Based on the information presented, several agencies have raised questions with the proposed rules. These include:

- **Level and Form of the Ozone Standard:** The current standard for ozone requires that the hourly average not exceed 0.12 parts per million (ppm) more than three times over three years. EPA is proposing to change the standard: the average, over three years, of the third-highest eight-hour concentration within any year can not exceed 0.08 ppm. EPA is requesting comments on alternative options, standards in the range of 0.07 ppm to 0.09 ppm, including: (1) whether the average should be based on the first or fifth, rather than the third, highest reading within any year; and (2) whether the traditional rounding convention should be replaced by a rounding procedure at the next digit.

EPA's science advisory panel (CASAC) endorsed a standard based on an eight-hour concentration, and endorsed the range of standards identified by EPA (0.07 to 0.09 ppm) as appropriate. It noted, however, that there is no threshold (even at background) at which there are zero risks and that the selection of a specific standard within the recommended range is a policy, not scientific, judgment.

Several of the agencies are interested in the scientific and health basis for the policy judgment and EPA's evaluation of the risk assessment information underlying that judgment. Note: EPA has not completed a risk assessment of the 0.08 ppm/third highest eight-hour standard that it is proposing, although it has completed risk assessments for standards that it believes are more and less stringent. The risk assessment for the proposed standard is expected to be completed by the end of December.

- **Level of the Particulate Matter Standard:** The current standard for PM requires that the annual average concentration of PM of a diameter no greater than 10 millionths of a meter (microns) not exceed 50 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), and that the second highest 24-hour concentration not exceed 150 $\mu\text{g}/\text{m}^3$. EPA would retain the PM_{10} standard and is proposing a new standard for fine PM of a diameter no greater than 2.5 microns -- annual average no greater than 15 $\mu\text{g}/\text{m}^3$ and a 24-hour standard of 50 $\mu\text{g}/\text{m}^3$. EPA also requests comments on alternative options, including: (1) an annual standard of 20 $\mu\text{g}/\text{m}^3$ and a 24-hour standard of 65 $\mu\text{g}/\text{m}^3$; and (2) an annual standard of 12 $\mu\text{g}/\text{m}^3$ and a 24-hour standard of up to 50 $\mu\text{g}/\text{m}^3$. The proposed option is at or below (more stringent

than) the levels preferred by most of the individual members of CASAC. CASAC noted that, unlike for ozone where there is a scientific consensus on the causal link between ozone exposure and health effects, for PM there is no accepted mechanism that would explain the substantially greater health effects observed in epidemiological studies.

Several of the agencies are interested in the health basis and the risk assessment information underlying EPA's evaluation of its proposed standard, both as to the stringency and the basis for selecting either the annual average or the 24-hour average as generally controlling.

- **Interaction Between Ozone and Particulate Matter:** Several agencies have raised questions about the interaction between these two proposals, including the extent to which controlling PM concentrations would lead to reduced ozone, and reductions in health risks associated with ozone (or vice versa).
- **Analysis of the Benefits and Costs:** During the course of its review, OIRA has identified several concerns with the Economic Analysis for these two proposals. The most important is the lack of cost estimates for either of the proposed standards in those areas projected to be unable to meet the current standard using known technology, as well as those that would be unable to meet a standard less stringent than the proposal.
- **Small Business Regulatory Enforcement Fairness Act (SBREFA):** Under SBREFA, EPA is required to convene a small business panel to obtain comments on any proposed rule where a regulatory flexibility analysis is required. EPA determined that because these are health-based standards and not the proposals to implement them, it need not conduct regulatory flexibility analyses and thus need not convene small business panels. Although SBA originally concurred with EPA's conclusion, it is considering changing its mind. Moreover, the American Trucking Association has threatened to take EPA to court on this issue. To the extent that the published package contains any implementation components, the fact that EPA did not convene panels prior to November 29 will be more problematic.
- **Unfunded Mandates Act:** Each of these proposals clearly triggers the Act's threshold of \$100 million in expenditures by the private sector. As a result, EPA will have to discuss in the preamble whether it proposed the alternative that was least costly, least burdensome, or most cost-effective, or explain why it proposed some other alternative. Another issue is whether State and local governments alone will incur expenditures over \$100 million in any given year, and thus whether EPA has satisfied the Act's requirement that it engage in consultations with these governments before issuing its proposal.

Interested Stakeholders

- **Environmental and Public Health Groups:** The environmental and public health interest groups have been attentively following the EPA development of these proposals. They expect both proposals to be published on November 29, and some will be very

disappointed if that does not happen. They may view the Administration's actions on these two proposals as an early "litmus" test of the Administration's environmental agenda and its willingness to propose health-based standards without regard to cost considerations.

- **State and Local:** State and local groups have expressed concern about EPA's proposals, especially in light of their efforts and progress in meeting the current ozone and PM standards. EPA believes that these concerns arise over the uncertainty associated with the change in standards and that proceeding quickly with these proposals will allow EPA to address this uncertainty by initiating a better informed dialogue with State and local groups. Some State and local environmental officials are supportive of the proposals.
- **Industry:** A number of industry groups have formed a well-financed organization to oppose any revision to the current standards for ozone and PM. The automobile and oil industries suspect that a major part of the burden of these standards will fall on mobile sources and fuels. Utilities and many other manufacturers are also very agitated, and they are arguing, at a minimum, that EPA should co-propose the existing standards.
- **Congress:** Various Members of Congress have written or called about these proposed standards. Some oppose them on the merits (to the extent they understand the merits); others are concerned that these standards (both the truncated review process and the product) will become a "poster child" for further regulatory reform legislation.

Next Steps

The questions set out above need to be addressed. Any disagreement on the best way to address these questions must be resolved through an interagency process. Finally, changes agreed to through this process need to be incorporated in these packages.

Options

The agencies' representatives discussed several options for next steps.

- Option 1:** Publish the ozone and PM proposals on November 29 according to the court schedule for PM. EPA strongly supports this option on the ground that the two proposals should be linked and that the court deadline cannot be changed.
- Option 2:** Delay the court deadline for the PM standard until the interagency review of both proposals is complete. Department of Transportation preferred this option. EPA advises that it is highly unlikely that an extension of the court deadline could be obtained.
- Option 3:** Split the package and publish the PM standard/monitoring packages by November 29; delay the ozone and interim implementation packages until

the interagency review is complete. Treasury, HHS (CDC), OSTP, CEA, and OMB (NRES and OIRA) preferred this option.

DOE and DoD need to consult further with their senior officials before expressing a preference. DOC, DOL, USDA, and DOI were not present at the last meeting. OVP, NEC, DPC, CEQ, IGA, and WH Counsel were either not present at the last meeting or requested more time.

Main issue -

2 major air stds - ozone / particulate mtr.
They've been linked by EPA -
good science

reintegrating idea - deal w/ together.
trying to bootstrap
Chaired deadline -

on PM - for next Friday.

Got both (OIRA) on Nov 6th - 23 days to to OIRA/
OMB review.

Delink? let PM go ahead - hold back ozone.

10:30 - Ross Run



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 21 1996

MEMORANDUM FOR DISTRIBUTION

FROM: EPA

SUBJECT: EPA's Proposed Ozone and Particulate Matter Public Health Standards

Issue for Consideration

Whether EPA should propose revisions to national air quality standards to ensure that these standards reflect the latest scientific knowledge and fully protect public health, most particularly for children and other at-risk individuals.

Overview

Under the Clean Air Act, EPA is required to set public health standards for certain fundamental air pollutants to assure the protection of public health with an adequate margin of safety. Pursuant to the law and court rulings, this public health decision is independent from any decisions regarding ultimate implementation strategies and costs. Once a public health standard is set, then a lengthy public process focuses on industry by industry, state by state, and city by city implementation mechanisms, taking into full account the cost of particular options.

An extensive, three-year, public scientific review, including multiple independent peer reviews, concluded that the current standards are not adequately protective of public health and that serious health risks arise -- particularly to children -- under the current ozone and particulate matter ("PM") standards. This scientific review process included both academic and industry scientists. The ozone external peer review panel found 185 relevant ozone health studies indicating that significant population groups were at risk under the current standard. The particulate matter scientific review panel found 67 of 86 relevant health studies indicated that the current standard was not protective.

Based on this extensive scientific review process, EPA recommends strengthening the ozone and particulate matter public health standards. This proposal, when culminated, will be a major and important step that will extend protections to 40 million children and help assure the health of some 133 million Americans. As with many EPA standards, its issuance is not without

controversy. Some will contend that we are acting precipitously and others will claim we are not being protective enough. We strongly believe, however, that the science is clear and results from an unprecedented independent process. Moreover, this unified proposal honors the requirement of the Clean Air Act to provide public health protections with a margin of safety.

In keeping with the reinvention goals of this Administration, in June of this year EPA delayed proposing the ozone standard until late November, allowing us thereby to merge the two proposals. This approach will allow us to speak to the common health effects, sources of pollution, and implementation strategies that arise from both standards.

It is important to note that the mere act of proposing -- or ultimately finalizing -- new health standards does not trigger any immediate regulatory requirements on any city, state, or business. Rather, these issues will be addressed in a lengthy, careful, and public process that can only occur once there is an indication of the precise level at which new standards will be set.

Public Health

Numerous peer-reviewed human health effect studies have found that the current standards are resulting in widespread adverse health effects in most large urban areas, including premature deaths, hospitalizations for respiratory illnesses, acute respiratory symptoms including severe chest pain, coughing and wheezing, aggravation of asthma, missed work and school days, and heightened susceptibility to other diseases. Since the standards were last revised, an increasingly large body of science points to particular risks to children, the elderly and people with respiratory problems. EPA believes that these health effects are unacceptable.

EPA's proposed new standards would result in:

- 20,000 lives saved annually;
- 450,000 - 650,000 fewer incidences annually of acute respiratory symptoms that can lead to missed work and school days, restricted activities and illness; and
- approximately 1.5 to 2 million fewer incidences annually of lung function decreases such as difficulty in breathing.

The ozone external peer review panel found 185 relevant ozone health studies indicating that significant population groups were at risk under the current standard. There was also consensus among the panel members that no bright line exists for ozone below which there will be no health effects. In other words, any ozone exposure above background has some health effects. The ozone standard consists of three interrelated variables; concentration, duration and form which determines the tolerance around the concentration. Merely altering any of those factors drastically changes the number of people at risk. While there was consensus among the panel members that the range of concentrations reviewed by EPA was appropriate, the panel concluded

that selection of a specific level, to be measured on an eight hour basis, is a decision reserved to EPA based upon how many people to protect from what effects. Such policy judgment is ultimately driven by which subpopulations and what health effects EPA thought appropriate to address.

Thus, pursuant to the Clean Air Act requirement of public health protection with an adequate margin of safety, EPA proposes a specific level of 0.08 ppm, which we believe is necessary to protect children and outdoor workers, particularly those with pre-existing respiratory disease.

While the panel members all agreed that the specific level was a policy judgment reserved to EPA, some, but not all, of the panel members did express their personal view to EPA. Of the eight of the sixteen who offered their personal views on the appropriate standard, they roughly split between .08 and .09 as appropriate.

In an effort to solicit public comment on this policy judgment, EPA's proposal to be published in the Federal Register does include a detailed discussion of what segments of the population would be protected and the degree to which health effects would be reduced at the .07, .08 and .09 levels. For example, the proposal details how many children and outdoor workers will be protected from increased severity of asthma attacks and other respiratory incidences at each level and solicits comment on the appropriateness of providing those protections.

Particulate: The particulate matter scientific review panel found that 67 of 86 relevant health studies -- some of which produced individual health data on hundreds of thousands of individuals -- indicated that the current standard was not protective. 19 of 21 members of this scientific advisory committee recommended setting a new standard to address finer particles than are presently addressed.

Litigation

Both the ozone and PM standard-setting processes have been subject to litigation brought by public health groups. During prior administrations, EPA scientists and other health experts had long believed that it was critical to conduct a thorough review of existing public health data on ozone and consider issuing tougher public health standards. Unfortunately, most recently the Bush-Quayle White House effectively prevented such a review.

When this Administration took over, it was under a court-imposed order to complete a review of the current ozone standard within three months. EPA had not, however, considered more than 2,000 potentially relevant peer-reviewed and published scientific studies regarding ozone. Recognizing that the Bush-Quayle Administration's review had been inadequate -- and

subject to litigation challenging EPA's failure to consider these studies -- EPA committed in a *Federal Register* notice (Attached as Appendix B), and subsequently in both the federal District Court and Court of Appeals for the D.C. Circuit, to undertake a thorough scientific review to be completed by mid-1996. While the Court of Appeals accepted EPA's proposed schedule, it also explicitly noted that the American Lung Association could file a motion for unreasonable delay if it became necessary in the future. The Lung Association has informed us of their intention to so proceed if EPA fails to act as promised by November 29th.

On particulate matter, the American Lung Association sued EPA to ensure prompt issuance of the standard. After litigation, the court in 1994 imposed a court-ordered deadline. In June 1996, EPA filed a notice in the *Federal Register* indicating that we would move forward with both the ozone and PM proposals together. This notice and the Court order specify November 29, 1996, for completing the scientific review and proposing and publishing any new standard, with a June 1997 deadline for final agency action.

In light of this history of aggressive litigation by public health groups on both the ozone and PM standards, it is absolutely clear that delay could lead to contempt or further litigation. Delay in issuing EPA's ozone proposal would almost certainly change the public perception from one where the Administration would have acted to propose strong public health protections, to one where we would be forced to do so in response to a lawsuit by the American Lung Association.

Implementation Strategies

Again, it is important to note that the mere proposal, or finalization, of new public health standards does not create, in and of itself, any new regulatory requirement. The mechanisms for achieving the public health standards will be developed over many years, with full public participation. EPA has already established and will expand its Clean Air Act Advisory Committee to facilitate dialogue and input from all. All individual implementation decisions will obviously be subject to full public comment. EPA is committed to working with other agencies, large and small businesses, state and local governments, and the public to develop a fair approach to implementing new standards. EPA is specifically committed to employing the assistance of a small business advisory panel in addressing implementation issues during the period between the proposal and finalization of new standards.

During the last four years, EPA -- working with industry and states -- has developed a number of new mechanisms for reducing air pollution. EPA believes the actions the Administration has accomplished and now has under development for other purposes will satisfy many of the new obligations that cities and industry may ultimately face. Important steps -- such as reducing toxic air emissions, controlling incineration, providing for cleaner gasoline and automobiles -- all will provide an important head start toward meeting new standards. We are

fully committed to continuing this outreach to develop successful common-sense and cost-effective strategies to implement new standards.

Furthermore, the history of clean air compliance in our nation has been a tribute to the ingenuity of industry to develop cost-effective strategies. As with the phaseout of chloroflourocarbons (CFCs) or the acid rain utility control provisions (where Congress contemplated allowances at \$700-\$1500 but at the latest auction they went for \$70), initial industry estimates of pollution control costs were quickly disproven and cleaner air was achieved at much lower costs than initially predicted.

Cost/Benefit

While the Clean Air Act does not permit the consideration of costs during the health-based standard setting stage of the process, in keeping with EPA's desire to expand the use of cost/benefit as an important tool to assist in our work, EPA did conduct a regulatory impact analysis of these proposals.

Obviously such an analysis prior to finalization of specific standards and development of individual implementation strategies is speculative at best. While separate economic analyses were done for each standard, there will be significant overlap in implementation strategies by the joining of the standards leading to likely decreases in costs. Moreover, it is important to remember that historically, early cost estimates of compliance with the Clean Air Act have been far greater than reality. The regulatory impact analysis for both standards calculates combined costs of \$6.6 billion to \$8.5 billion and monetized benefits of \$70 billion to \$120 billion. Not included in the benefits estimates are health effects including premature aging of the lungs, lung function decreases, increased susceptibility to respiratory infection and environmental benefits such as improved visibility and ecosystem protection.

Conclusion

This Administration and this President have stood firm for, and prided themselves on, strong public health protections -- based on the best available science confirmed by peer review -- and employing reinvention to achieve common sense and cost-effective approaches that allow for sustained economic growth. This proposal will meet all of these commitments.

EPA's proposed health standards are about: extending protections to 40 million children; respecting thousands of hours of independent and scientific peer review; linking for the first time major pollution standards; and honoring the President's commitment to provide the public with the information to know about the health of its community.

EPA has worked hard during this Administration, in carrying out its extensive regulatory agenda, to make the OIRA review process and Executive Order 12866 a success. Some have suggested that allowing these proposals to move forward now will result in renewed Congressional interest in regulatory reform legislation. We firmly believe that whether or not this rule will spur regulatory reform efforts in Congress is far more likely to turn on the quality of the science and its attendant peer review and public comment processes -- which is unprecedented here -- than on whether OMB had a full review period at the conclusion of this three year rule development effort. Indeed, as Attachment C indicates, EPA has been consulting extensively with OMB and other agencies on review of these proposed standards since 1993, and we believe review could be accomplished during the current period.

We look forward to working with all in the Administration to honor the President's commitments to protect public health and the environment while ensuring strong economic progress for our nation.

THE CLEAN AIR ACT SETS OUT A MODEL SCIENTIFIC PROCESS FOR REVIEWING AIR QUALITY STANDARDS

The Scientific Review for the NAAQS Proposal is Among the Most Thorough and Ambitious in EPA's History

- In reviewing the ozone and particulate matter standards, EPA started with a literature search of over 3,000 studies for each.
- Over a three-year process, the scientific process identified 185 human-health related studies of ozone, including controlled human studies, epidemiological studies and toxicological studies and 86 studies of links between particulate matter and human health, including epidemiological studies and toxicological studies
- These studies overwhelmingly indicated that neither the current ozone nor particulate matter standards adequately protect public health.

EPA Relies on Peer Reviewed Science and the Recommendation of Independent Scientists

- The Clean Air Act requires the Administrator of EPA to review and determine whether air quality standards are adequate to protect public health with an adequate margin of safety at least every five years.
- In reviewing the standards, the Act requires EPA to rely on the advice of an independent scientific review committee -- called the Clean Air Scientific Advisory Committee (CASAC).
- CASAC is made up of nationally recognized experts in many disciplines -- physicians, toxicologists, epidemiologists, atmospheric scientists -- from academia, industry and the states.
- EPA prepares two major documents for CASAC's consideration -- a criteria document that reviews the state of the science and a staff paper that attempts to interpret the science.
- The scientific review is extensively peer reviewed -- for a study to be considered for the criteria document, it must first appear in a peer review journal. National scientific experts peer review individual chapters of the criteria document before CASAC even considers them.
- CASAC peer reviews both the criteria document and the staff paper. Upon completion of its review, CASAC advises the Administrator as to whether the criteria document represents an adequate review of the available science and whether the staff paper constitutes an adequate basis for regulatory decisions.

The Scientific Review is a Public Process

- Drafts of the criteria document and the staff paper are made publicly available for review prior to the CASAC meetings where they are discussed.
- CASAC meetings are open to the public.
- EPA maintains a publicly available docket of all CASAC and standard-related proceedings. EPA also distributes this material through an extensive mailing list and over the Internet.

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 50

[FRL-4232-8]

**Review of National Ambient Air Quality
Standards for Ozone**
AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of review.

SUMMARY: This notice announces the EPA's plans to review and revise the Air Quality Criteria for Ozone and Other Photochemical Oxidants (Criteria Document) as rapidly as possible and to complete review of the national ambient air quality standards (NAAQS) for ozone (O₃) as soon as possible thereafter.

The Clean Air Act (Act) requires periodic review and, if appropriate, revision of the NAAQS and of the air quality criteria on which they are based. The EPA completed its last formal review of the air quality criteria for O₃ in 1989. Based on that review, the EPA announced a final decision on March 9, 1993 not to revise the existing O₃ NAAQS.

Since early 1989, however, a substantial number of new studies on the health and environmental effects of O₃ have appeared in the peer-reviewed literature. The EPA is moving as rapidly as possible to review them, consistent with assuring a sound, scientifically-supportable decision.

The review process includes: (1) Reviewing and revising the Criteria Document; (2) reviewing the NAAQS through development of a Staff Paper based on the revised Criteria Document; (3) external review of Criteria Document and Staff Paper drafts by the Clean Air Scientific Advisory Committee (CASAC) of the EPA's Science Advisory Board, an independent panel of scientific experts, and by the public; and (4) examining implementation ramifications of changes to the O₃ NAAQS. The EPA intends to adhere to strict schedules for external review of Criteria Document and Staff Paper drafts consistent with a full opportunity for thorough scientific and public review, and to deny any requests for extensions of the public comment periods specified in this notice.

During this NAAQS review, the EPA intends to continue implementing programs designed to meet the current standards and the requirements of the Clean Air Act Amendments of 1990 to ensure continued improvement in air quality. The EPA is also examining options for implementing alternative O₃ NAAQS to ensure a smooth transition if

a decision is made to revise the existing NAAQS.

FOR FURTHER INFORMATION CONTACT: Dr. Karen Martin, Air Quality Management Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541-5274.

SUPPLEMENTARY INFORMATION:
Background

Based on a Criteria Document issued by the Department of Health, Education and Welfare in 1970, the EPA promulgated the first NAAQS for photochemical oxidants under section 109 of the Act (36 FR 8186) in 1971. The primary and secondary NAAQS were both set at an hourly average of 0.08 parts per million (ppm) total photochemical oxidants not to be exceeded more than 1 hour per year.

In 1977, the EPA announced (42 FR 20493) the first review and updating of the 1970 Criteria Document in accordance with section 109(d)(1) of the Act. The EPA published a Criteria Document in 1978. Based on the revised Criteria Document and taking into account public comments on revisions proposed to the primary and secondary NAAQS in 1978 (43 FR 16962), the EPA announced revisions to the 1971 standards in 1979 (44 FR 8202). The primary standard was revised from 0.08 parts per million (ppm) to 0.12 ppm; the secondary standard was set identical to the primary standard; the chemical designation of the standards was changed from photochemical oxidants to O₃; and the form of the standards was revised from a deterministic form to a statistical form, which defines attainment of the standards as occurring when the expected number of days per calendar year with maximum hourly average concentrations greater than 0.12 ppm is equal to or less than one.

In 1982 (47 FR 11561), the EPA announced plans to revise the 1978 Criteria Document. In 1983, the EPA announced (48 FR 38009) that review of primary and secondary standards for O₃ had been initiated. The EPA subsequently provided a number of opportunities for public review and comment on drafts of the Criteria Document and associated Staff Paper (Review of the National Ambient Air Quality Standards for Ozone: Assessment of Scientific and Technical Information—Office of Air Quality Planning and Standards Staff Paper). After reviewing the draft Criteria Document in 1985 and 1986, the CASAC sent the Administrator a "closure letter" outlining key issues and recommendations and indicating that it

was satisfied with the final draft of the 1986 Criteria Document.

Following closure, a number of scientific articles and abstracts were published or accepted for publication that appeared to be of sufficient importance concerning potential health and welfare effects of O₃ to warrant preparation of a supplement to the Criteria Document (Supplement). The CASAC, having already reviewed two drafts of the Staff Paper in 1986 and 1987, concluded that sufficient new information existed to recommend incorporation of relevant new information into a third draft of the Staff Paper.

The CASAC held a public meeting in 1988 to review a draft Supplement and the third draft Staff Paper. Major issues included: The definition of adverse health effects of O₃; the significance of health studies suggesting that exercising individuals exposed for 6 to 8 hours to O₃ levels at or below 0.12 ppm may experience lung inflammation and transient decreases in pulmonary function; the possibility that chronic irreversible effects may result from long-term exposures to elevated levels of O₃; and, the importance of analyses indicating that agricultural crop damage may be better defined by a cumulative seasonal average than by a 1-hour peak level of O₃. In its "closure letter" of 1989, the CASAC indicated that the draft Supplement and draft Staff Paper "provide an adequate scientific basis for the EPA to retain or revise primary and secondary standards for ozone."

On October 22, 1991, the American Lung Association and other plaintiffs filed suit under section 304 of the Act to compel the EPA to complete its review of the criteria and standards for O₃ under section 109(d)(1) of the Act (*American Lung Association v. Reilly*, No. 91-cv-4114 (JRB) (E.D.N.Y.)). The U.S. District Court for the Eastern District of New York subsequently issued an order requiring the EPA to sign a Federal Register notice announcing its proposed decision on whether to revise the standards for O₃ by August 1, 1992 and to sign a Federal Register notice announcing its final decision by March 1, 1993.

On August 10, 1992 (57 FR 35542), the EPA published a proposed decision under section 109(d)(1) that revisions to the existing primary and secondary standards were not appropriate at that time. The notice explained in some detail (see 57 FR 35546) that the proposed decision would complete the EPA's review of information on health and welfare effects of O₃ assembled over a 7-year period and contained in the 1986 Criteria Document and the 1989

Supplement. The notice made clear that the Administrator did not take into account more recent studies on the health and welfare effects of O₃ because these studies had not been assessed in the 1986-1989 Criteria Document/Supplement, nor had they collectively undergone the rigorous, integrative review process (including CASAC review) required to incorporate them into a new criteria document. The proposed decision, therefore, was based on an evaluation of key studies published through early 1989 as contained in the 1986-89 Criteria Document/Supplement, the 1989 Staff Paper assessment of the most relevant information in these documents, and the advice and recommendations of the CASAC as presented both in the discussion of these documents at public meetings and in the CASAC's 1986 and 1989 "closure letters."

In view of the large number of recent scientific papers and ongoing research on the health and welfare effects of O₃, the August 10, 1992 notice also announced the EPA's intention to proceed as rapidly as possible with the next review of the air quality criteria and standards for O₃. On March 9, 1993 (58 FR 13008) the EPA published its final decision not to revise the current primary and secondary NAAQS for O₃. Because of the scientific and technical complexity of such assessments, the EPA had estimated that 2 to 3 years would be necessary to rigorously assess more than 1,000 new studies and incorporate key information into a revised criteria document, to evaluate the significance of the key information for decision-making purposes, to develop staff recommendations for the Administrator, and to provide appropriate opportunities for CASAC review and public comment. Given the potential importance of the new studies and the EPA's continuing concern about the health and welfare effects of O₃, the March 9, 1993 notice also indicated the Administrator's intention to move the review process ahead as quickly as possible and, if appropriate, to propose revisions of the standards at the earliest possible date.

Current Review Process/Schedule

Following publication of the March 9, 1993 decision, the Agency, in consultation with the CASAC and the Science Advisory Board, undertook a rigorous examination of the NAAQS review process designed to identify all measures that could be taken to accelerate its review of the criteria and standards for O₃ consistent with assuring a sound and scientifically-credible decision. As a result, the EPA

has adopted a number of measures intended to accelerate the O₃ NAAQS review. These measures include: (1) Conducting review and revision of the Criteria Document and development of the Staff Paper and associated analyses (e.g., exposure analysis and health risk assessments) in a more concurrent fashion than in the previous NAAQS reviews; (2) adhering to strict schedules for external review of Criteria Document and Staff Paper drafts consistent with a full opportunity for thorough scientific and public review; (3) establishing a highly-expedited Agency review process with senior level management oversight and involvement throughout the process, as well as early discussion of possible options with other Federal agencies, including the Office of Management and Budget; and (4) reducing the volume of information included in the revised Criteria Document by focusing on the most important new studies and setting a date beyond which new studies will not be included.

The EPA's current O₃ NAAQS review schedule incorporates the measures cited above. The Agency's target date for completion of the Criteria Document and Staff Paper is mid-1995, with proposal of changes to the O₃ NAAQS, if appropriate, in mid-1996 and promulgation in mid-1997. Table 1 outlines key milestone dates for this accelerated schedule.

As indicated in Table 1, there are a number of opportunities for public comment throughout the process. The EPA encourages involvement of interested parties and is providing this advance notice to alert potential participants in the review that adhering to the schedule will require some departures from past practices.

TABLE 1

Major milestones	Tentative dates
CASAC Subcommittee Meeting on Exposure Assessment Methods.	December 1993.
CASAC and Public Comment Period for Criteria Document (CD) (90 days).	February to May 1994. ¹
CASAC Subcommittee Meeting on Risk Assessment Methods.	March 1994.
CASAC Meeting on CD.	July 1994.
Comment Period on Staff Paper (SP) (60 days).	September to October 1994.
CASAC Meeting on SP.	October 1994.

TABLE 1—Continued

Major milestones	Tentative dates
Public Comment Period on Revised CD and SP (90 days).	Early 1995.
CASAC Meeting on Revised CD and SP.	Mid-1995.
Agency Development of Regulatory Decision/Proposal Package Draft.	Mid-1995 to late 1995.
Office of Management and Budget Review of Proposal Package.	Early 1996.
Publication of Proposal in Federal Register.	Mid-1996.
Public Comment Period on Proposal (90 days).	Mid-1996.
CASAC Meeting to Review Proposal.	Late 1995.
Regulatory Decisions and Final Package Draft Completed.	Early 1997.
Office of Management and Budget Review of Promulgation Package.	Early 1997 to mid-1997.
Publication of Promulgation Notice in Federal Register.	Mid-1997.

¹ For a notice of availability of external review draft, see 59 FR 4278, January 31, 1994.

In particular, the EPA has often granted requests for extensions of public comment periods in previous reviews; in order to meet the accelerated schedule for the O₃ NAAQS review, however, the EPA intends not to grant such extensions during this review. Accordingly, potential participants in the review should take note of the process outlined in this notice and be prepared to respond promptly when opportunities to comment are offered.

Given the scientific and technical complexity of the issues likely to be involved in the O₃ review, the diversity of scientific opinion that has characterized previous reviews of the criteria and standards for O₃, and the need to ensure that its ultimate decision is soundly based, the EPA cannot, of course, provide any absolute assurance that it will meet all of the interim milestone dates indicated in Table 1. Completion of the necessary steps in a timely manner is also predicated upon the availability of adequate resources during the review process. However, the Administrator has emphasized a high priority on meeting the accelerated schedule outlined in this notice.

To that end, the review process is well under way. The EPA initiated action to update the air quality criteria for O₃ in August 1992 (57 FR 38832). It

held two peer-review workshops on draft health effects chapters of a revised Criteria Document (58 FR 35454) in July 1993. Additional workshops on draft air quality and ecological effects chapters (58 FR 48063) were held in September 1993. Since then, the EPA has discussed the schedule and process outlined in this notice with the CASAC (58 FR 59034). The EPA is also conducting exposure and risk analyses. A subcommittee of the CASAC met on December 16, 1993 to review methodologies (58 FR 63345). A further subcommittee meeting on risk analysis is planned for spring 1994.

Implementation

It is important to stress that while conducting this review, the EPA remains committed to implementing the existing O₃ NAAQS in accordance with the Clean Air Act Amendments of 1990 (CAAA). During the review, the EPA will continue to work with States to implement emission control strategies required by the CAAA to meet the existing O₃ NAAQS. These efforts include State and Federal actions to reduce emissions of volatile organic compounds and nitrogen oxides, which act as precursors to O₃ formation in the troposphere. The EPA will make every effort to maintain implementation schedules consistent with requirements of the CAAA to ensure continued improvement in air quality.

As part of the review, the EPA is examining the ramifications of any changes to the NAAQS on current implementation efforts. If appropriate, new implementation rules and guidelines will be considered for alternative NAAQS. The EPA also is reviewing options to ensure a smooth transition for implementation of any new O₃ NAAQS in the event a decision is made to revise the current O₃ NAAQS.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: January 27, 1994.

Carol M. Browner,

Administrator.

[FR Doc. 94-2487 Filed 2-2-94; 8:45 am]

BILLING CODE 5560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 68

[CC Docket No. 93-268, RM-7815, RM-6147; FCC 93-434]

Connection of Customer-Provided Terminal Equipment to the Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to amend rules which regulate the terms and conditions under which customer-provided terminal equipment may be connected to the telephone network. The proceeding was initiated by petitions for rulemaking filed by Southwestern Bell Telephone Company (SWB) and Ameritech Operating Companies (Ameritech) who ask that regulations governing switched digital services be added. The effect of the proposed rules would be to promote rapid exploitation of switched digital technology. We propose also to provide for a registration revocation procedure which should greatly enhance our ability to enforce applicable rules as well as the Telecommunications Trade Act of 1988; and we take this opportunity to propose clarifications to other rules.

DATES: Comments were to be submitted on or before January 13, 1994, and replies by January 28, 1994; however, those dates have been extended to February 10, 1994 for comments and February 25, 1994 for replies.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, with copy to William H. von Alven, FCC, Mail Stop 1600B2, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William H. von Alven, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau, (202) 634-1833.

SUPPLEMENTARY INFORMATION: This summarizes the NPRM in CC Docket 93-268, RM-7815, and RM-6147 (FCC 93-484) adopted October 22, 1993 and released November 22, 1993, supplemented by an Errata, and Order Extending Comment Period released January 12, 1994 (DA 94-46). Persons affected by part 68 practice and procedure are urged to review the full texts of both the NPRM and Errata, and the supporting file, which are available for inspection and copying during the

weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, room 239, 1919 M St., NW., Washington, DC. Copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2100 M St., NW., suite 140, Washington, DC 20037, (202) 857-3800.

Paperwork Reduction Act

Reporting and recordkeeping activities needed to comply with the proposed rules are usual and customary.

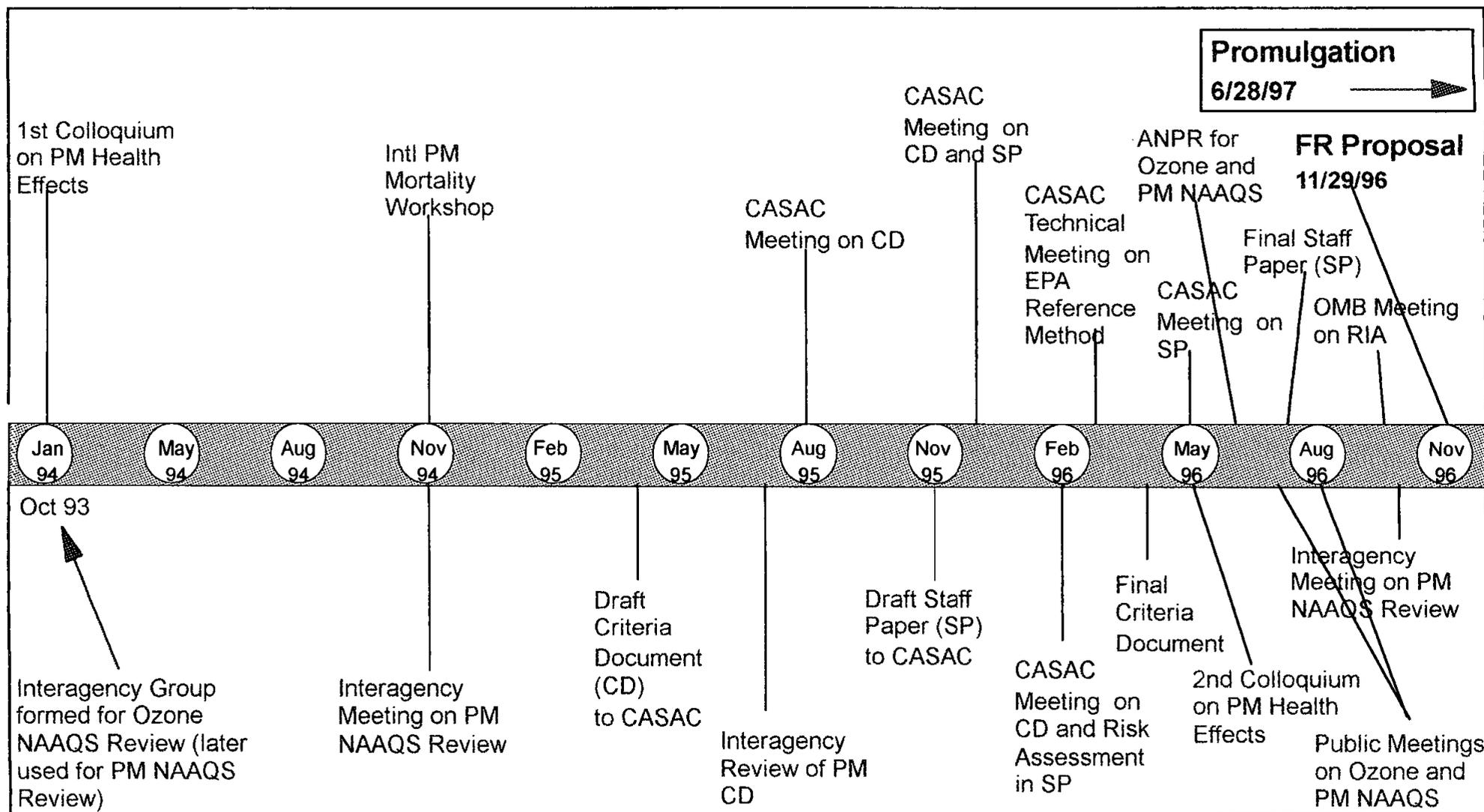
Analysis of Proceeding

1. By this NPRM we contemplate amending parts 2 and 68 of the rules, 47 CFR parts 2 and 68. A purpose of part 68 is to maintain uniform standards for the protection of the telephone network from harms caused by the connection of terminal equipment and associated wiring. This proceeding was initiated by two petitions for rulemaking, one filed by SWB (RM-7815) and the other by Ameritech (RM-6147).

2. SWB requests that part 68 be amended to include the regulation of terminal equipment connected to the two-wire Basic Rate Access (BRA) interface and to the Primary Rate Access (PRA) interface provided by Integrated Services Digital Network (ISDN) access technology. BRA consists of one or two 64 Kbps information channels with a 16 Kbps channel for dialing and network access information. The 1.544 Mbps PRA consists of 23 64 Kbps information channels and the 64 Kbps dialing and network access channel. ISDN is in a developmental phase, being deployed these last few years in an experimental mode. The Public Notice of SWB's petition elicited comments from eight parties and reply comments from three. There was overwhelming support for including this service in part 68 in order to promote, on a nationwide and worldwide basis, rapid exploitation of this technology with minimum mandatory criteria for connection of CPE (customer premises equipment). Thus, we propose for comment technical standards for including this service in part 68 in supplement to the existing standards for non-switched leased-line digital services which were added in 1985.

3. Commenting on SWB's petition, AT&T recommends (a) that part 68 rules covering PRA not be limited to the two-wire ISDN BRA service but also authorize terminal equipment connected to the 4-wire ISDN PRA (1.544 Mbps) interface pursuant to performance and compatibility standards adopted by ANSI (American National Standards Institute); (b) that amendments to part 68 provide equipment specifications for both PRA

History of PM NAAQS Review



Blue Text: Peer-review process with Clean Air Scientific Advisory Committee (CASAC)

Red Text: Interagency Meetings

Black Text: Science Meetings

Green Text: Public Meetings