

**Oral Testimony of Amey Marrella
Deputy Commissioner, Connecticut Department of Environmental Protection
On Behalf of NESCAUM
Addressing the U.S. Environmental Protection Agency's Proposed Rule
To Revise the National Ambient Air Quality Standards for Ozone
(72 FR 37818-37919)
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Philadelphia, Pennsylvania**

Good morning. My name is Amey Marrella and I serve as Deputy Commissioner of the Connecticut Department of Environmental Protection. I am speaking today on behalf of NESCAUM – the Clean Air Association of the eight northeast states -- regarding EPA's proposal to revise the primary National Ambient Air Quality Standard (or NAAQS) for ozone.

Ground-level ozone is a respiratory irritant that adversely affects both people with respiratory disease and healthy children and adults. Since the last ozone NAAQS review, a new, robust and more sophisticated body of health studies has clearly shown that the current primary ozone NAAQS does not adequately protect public health from the adverse health effects of ozone. In light of this evidence, the EPA Administrator, EPA staff, and the Clean Air Scientific Advisory Committee (known as CASAC) have all recognized the need for a more stringent ozone standard.

While NESCAUM commends EPA for proposing a more stringent ozone level, we note that EPA's proposed range – from 0.070 to 0.075 parts per million (ppm) -- exceeds the range unanimously recommended by CASAC, the agency's independent scientific advisory board.

All eight of the NESCAUM member states join together in urging EPA to set the primary ozone NAAQS within the range of 0.060 to 0.070 ppm, as recommended by CASAC.

The last time EPA revised the primary ozone NAAQS, in the 1990s, the health effects information was less clear. CASAC members were divided in the recommendations they offered EPA regarding the appropriate level for ozone. Now, CASAC's membership is making a unanimous recommendation to EPA to revise the primary ozone NAAQS level within the 0.060 to 0.070 ppm range. NESCAUM strongly believes that EPA should follow the advice of its independent scientific advisory committee when that committee speaks with such a clear and united voice. Both public policy and the statutory prominence of CASAC as an independent advisory body call on EPA to heed the advice of CASAC when CASAC speaks unanimously. Indeed, in the 1990s, when all of CASAC's members recommended changing the ozone NAAQS averaging time from one-hour to eight-hours, EPA followed that recommendation.

Further, CASAC's recommendation for a more stringent standard makes a very substantial difference for the residents of our eight states. For example, NESCAUM looked at the potential public health differences between a 0.075 ppm standard (EPA's upper range proposal) and 0.070 ppm (the point where EPA's lower range and CASAC's upper range intersect). Using 2001 census data, and assuming that many ozone reduction strategies will be implemented by 2009, NESCAUM looked at the number of people within our region who will breathe air meeting a 0.075 ppm NAAQS and the number of people within our region who will breathe air meeting a 0.070 ppm NAAQS. In the eight-state NESCAUM region alone, some 4.5

million people live in areas that are expected in 2009 to achieve 0.075 ppm but not 0.070 ppm for ozone. This means that, should EPA finalize the primary ozone NAAQS at the upper limit of its proposed range, some 4.5 million people would remain exposed indefinitely to the adverse health effects that caused CASAC to recommend a level of 0.070 ppm or less. Surely, this large exposure population within the NESCAUM region qualifies as a matter of public health concern. To protect public health, EPA must finalize the primary ozone NAAQS within the more protective CASAC range.

Finally, we urge EPA to clearly distinguish its standard-setting obligations from attainment challenges. EPA has an obligation under the Clean Air Act -- as underscored in 2001 by the Supreme Court¹ -- to set NAAQS based solely on what is requisite to protect public health, without consideration of the costs of attainment. We expect EPA to uphold its obligation and set the ozone NAAQS within the recommended CASAC range in order to protect public health with an adequate margin of safety.

NESCAUM will be submitting into the docket more detailed written comments regarding the primary ozone NAAQS. Thank you for the opportunity to testify.

¹ *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001).