

EPA Announces Proposal to Retain 2015 Ozone NAAQS

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Under Section 109(d) of the Clean Air Act, the EPA is required to conduct a comprehensive review of the National Ambient Air Quality Standards (NAAQS) every five years and revise or retain these standards as appropriate. On July 13, 2020, the EPA released a pre-publication draft of its proposal to retain the 2015 ozone NAAQS without revision. These standards are set at 70 parts per billion (ppb) for both the primary (health-based) and secondary (welfare-based) standards. The proposal comes as Chicago and other areas of the country are experiencing air quality alerts due to high levels of ozone in the ambient air with hot, sunny, summer weather.

The 2015 ozone NAAQS were challenged in court as being too stringent by industry groups and too lenient by environment and public health groups. In 2019, the U.S. Court of Appeals for the District of Columbia Circuit upheld the primary standards but concluded that the EPA had not provided sufficient rationale for the secondary standards. *Murray Energy Corp. v. EPA*, 936 F.3d 597 (D.C. Cir. 2019). The secondary standards were accordingly remanded to the EPA for further justification. EPA addressed the remand in the proposal, concluding that retaining the 2015 secondary ozone NAAQS is supported by the available scientific evidence.

Once the proposal is published in the *Federal Register*, the EPA will accept public comments for 45 days. Two virtual public hearings will be held 15 days after publication on the earliest two consecutive weekdays.

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