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Air Quality: EPA's 2006 Changes to the Particulate Matter (PM) Standard

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Summary

On October 17, 2006, the EPA published its final revisions to the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The EPA reviewed more than 2,000 scientific studies and found that the evidence continued to support associations between exposure to particulates in ambient air and numerous significant health problems, including aggravated asthma, chronic bronchitis, reduced lung function, heart attacks, and premature death in people with heart or lung disease. Based on several analytical approaches, the EPA estimates that compliance with the new NAAQS will prevent 1,200 to 13,000 premature deaths annually, as well as substantial numbers of hospital admissions and missed work or school days due to illness. Although a tightening of the PM standards, the new NAAQS are not as stringent as recommended by EPA staff or the independent scientific advisory committee (CASAC) mandated under the Clean Air Act.

The new PM NAAQS strengthen the existing (1997) standard for "fine" particulate matter 2.5 micrometers or less in diameter ($PM_{2.5}$) by lowering the allowable *daily* concentration of $PM_{2.5}$ in the air. The new daily standard averaged over 24-hour periods is reduced from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$. However, the *annual* $PM_{2.5}$ standard, which is set in addition to the daily standard to address human health effects from chronic exposures to the pollutants, is unchanged from the 1997 standard of 15 µg/m3, although the CASAC had recommended a tighter annual standard in the range of 13 to 14 $\mu g/m^3$. Eighty-eight million people live in the 208 counties designated as "nonattainment" areas for the 1997 $PM_{2.5}$ NAAQS.

The new PM NAAQS also would retain the 24-hour standard and revoke the annual standard for slightly larger, but still inhalable, particles less than or equal to 10 micrometers (PM_{10}). The EPA abandoned its proposal to replace the particle size indicator of PM_{10} with a range of 10 to 2.5 micrometers ($PM_{10-2.5}$), and did not follow through on its proposal to exclude any mix of particles "dominated by rural windblown dust and soils and PM generated by agricultural and mining sources."

In addition to the divergence from the CASAC's recommendation, several elements of the new PM standard may prove controversial, including the decision not to exclude rural sources from the coarse particle standard. Some have also questioned the EPA's strengthening of the standard for *all* fine particles, without distinguishing their source or chemical composition. The establishment of PM NAAQS in 1997 proved controversial and included extensive congressional oversight. Congress may conduct oversight of the new PM NAAQS, given their potential for public health and economic impacts.

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Introduction

The EPA has identified and promulgated National Ambient Air Quality Standards (NAAQS) under the Clean Air Act (CAA)[1] for six principal pollutants classified by the agency as "criteria pollutants": particulate matter (PM), ozone (O_3, a key measure of smog), nitrogen dioxide (NO_2, or, inclusively, nitrogen oxides,[2] NOx), sulfur oxides (SOx, or, specifically, SO_2), carbon monoxide (CO), and lead (Pb). On September 21, 2006,[3] EPA Administrator Stephen Johnson signed revisions to the NAAQS for particulates to provide protection against potential health effects associated with short- and long-term exposure to particulate matter (including chronic respiratory disease and premature mortality).

The EPA's newly promulgated PM NAAQS modify the standards established in 1987[4] that focused on particles smaller than 10 microns (PM_{10}, or coarse particles) and standards for "fine" particles smaller than 2.5 microns ($PM_{2.5}$) introduced for the first time with the promulgation of the 1997 PM NAAQS.[5] The revised PM NAAQS are the culmination of the EPA's most recent statutorily required periodic review,[6] based on its evaluation and analysis of more than 2,000 scientific studies available between 1997 and 2002, and on determinations made by the Administrator. Prior to this, the most recent changes to any NAAQS, a strengthening of the particulate matter and ozone standards, were promulgated jointly in 1997. The EPA's recently completed review of the PM NAAQS and of the scientific criteria for setting the standards was initiated not long after the 1997 promulgation.

While the new PM NAAQS generally tighten the air quality standards for particulate matter, the action has caused considerable controversy, including concerns that the standards are outside the range recommended by both EPA staff and by the

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[1] Sections 108-109 of the Clean Air Act (CAA).

[2] The NAAQS is for NO_2; nitrogen gases that are ozone precursors are referred to as NOx.

[3] 71 *Federal Register* 61143-61233, Oct. 17, 2006. Available on EPA's website at [http://epa.gov/pm/actions.html].

[4] 52 *Federal Register* 24640, July 1, 1987.

[5] 62 *Federal Register* 38652-38896, July 18, 1997.

[6] Section 109(d)(1) of the CAA. According to the statute, the EPA is required to review the latest scientific studies and either reaffirm or modify the NAAQS every five years.

scientific advisory panel established by the Clean Air Act (CAA).[7] Conversely, some continue to contend that available data do not support the need for stricter standards or, in some cases, even the standards as promulgated in 1997. The new PM NAAQS are expected to generate national interest and national debate, and possibly oversight in Congress, as did the 1997 standard.

In order to better understand EPA's actions, this report provides an analysis of the EPA's final revisions to the PM NAAQS, and the estimated costs and benefits of the new standard and of a more stringent alternative. The report concludes by highlighting concerns and issues raised regarding the revisions to the PM standards, including the response of the science advisory committee (Clean Air Scientific Advisory Committee, or CASAC), as well as actions by Congress.

EPA's 2006 Changes to the PM NAAQS

Establishing NAAQS does not directly limit emissions; rather, it represents the EPA Administrator's formal judgment regarding the level of ambient pollution that will protect public health with an *adequate margin of safety*. Under Sections 108-109 of the CAA, Congress mandated that the EPA set national ambient (outdoor) air quality standards for pollutants whose emissions "may reasonably be anticipated to endanger public health (primary standards) or welfare[8] (secondary)" and "the presence of which in the ambient air results from numerous or diverse mobile or stationary sources." The statute further requires that every five years EPA review the latest scientific studies and either reaffirm or modify previously established NAAQS.

The CAA is quite specific on certain steps of the process for establishing and reviewing NAAQS,[9] particularly in regard to the preparation of a "criteria document" summarizing the scientific information (the resulting criteria to be used by the EPA Administrator in deciding on the final standard) and the procedural process for promulgating the standard. The act also established the Clean Air Scientific Advisory Committee to review criteria and standards, and to advise the Administrator. The CASAC augments its own resources by creating a review panel of scientists with expertise specific to the pollutant in question. The PM review panel consisted of 22 national experts, primarily academics and independent researchers.[10] In addition to the CAA requirements, the EPA has chosen to add the

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[7] Section 109(d)(2)of the Clean Air Act.

[8] The use of public welfare in the CAA "includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants" (42 U.S.C. 7602(h)).

[9] 42 U.S.C. 7408(a)(1), see CRS Report 97-722, *Air Quality Standards: The Decisionmaking Process*, by John E. Blodgett and Larry B. Parker.

[10] For information regarding the CASAC PM review panel see [http://www.epa.gov/sab/pdf/casac-ltr-06-002.pdf].

preparation of a "staff paper" that summarizes the criteria document and lays out policy options. The CASAC also formally reviews the EPA staff paper.[11]

The EPA's most recent review found that the scientific evidence since 1997 reinforced the associations between exposure to PM and numerous cardiovascular and respiratory health problems, including aggravated asthma, chronic bronchitis, reduced lung function, irregular heartbeat, nonfatal heart attacks, and premature death. The CASAC found that the numerous epidemiological studies that the EPA reviewed "have shown statistically significant associations between the concentrations of ambient air $PM_{2.5}$ and PM_{10} (including levels that are lower than the 1997 PM NAAQS) and excess mortality and morbidity."[12] Further, the EPA concluded, and most of the CASAC panel concurred, that the scientific evidence supported modifying the PM standard.

The primary NAAQS for both $PM_{2.5}$ and PM_{10} include an *annual* and a *daily* (24-hour) limit. To attain the annual standard, the three-year average of the weighted annual arithmetic mean PM concentration at each monitor within an area must not exceed the maximum limit set by the agency. The 24-hour standards are a concentration-based percentile form, indicating the percentage of the time that a monitoring station can exceed the standard. For example, a 98th percentile 24-hour standard indicates that a monitoring station can exceed the standard 2% of the days during the year.

As modified and published in the October 17, 2006, *Federal Register* Notice, the primary $PM_{2.5}$ and PM_{10} standards are as follows:

- **$PM_{2.5}$:** strengthens the *daily* (24-hour) standard, which currently allows no more than 65 micrograms per cubic meter ($\mu g/m^3$), by setting a new limit of 35 $\mu g/m^3$, based on the three-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations; retains the *annual* standard at 15 $\mu g/m.^3$

- **PM_{10}:** retains the *daily* (24-hour) standard at 150 $\mu g/m^3$ but changes from the 99th percentile to no more than one exceedance per year on average over three years; eliminates the *annual* maximum concentration (50 $\mu g/m^3$) standard for PM_{10}.[13]

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[11] The EPA October 2004 criteria document and December 2005 staff paper, the CASAC reviews, and related information supporting the 2006 revisions to the PM NAAQS are available at [http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html].

[12] CASAC Particulate Matter (PM) review of EPA's *Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information (Second Draft PM Staff Paper, January 2005*, EPA-SAB-CASAC-05-007, June 6, 2005), available at [http://www.epa.gov/sab/panels/casacpmpanel.html].

[13] Based on the findings in the EPA PM criteria document and staff paper, and the CASAC's concurrence, that the studies reviewed do not provide sufficient evidence regarding *long-term* exposure to PM_{10} to warrant continuation of an annual standard, see 71 *Federal Register* 2653, *Section III. Rationale for Proposed Decision on Primary PM_{10} Standards,*
(continued...)

For $PM_{2.5}$ and PM_{10}, the secondary (welfare) NAAQS are the same as the primary standards. **Table 1** below provides a comparison of the newly revised primary NAAQS with those previously promulgated for both $PM_{2.5}$ and PM_{10}.

Table 1. Primary (Health) NAAQS for $PM_{2.5}$ and PM_{10}: Final Revisions (2006), and Previously Promulgated

	Previous NAAQS	EPA Final Rule (2006)
	$PM_{2.5}$ (Fine)	
24-Hour Primary Standard	65 $\mu g/m^3$	35 $\mu g/m^3$
Annual Primary Standard	15 $\mu g/m^3$	15 $\mu g/m^3$
	PM_{10} (Coarse)	
24-Hour Primary Standard	150 $\mu g/m^3$	150 $\mu g/m^3$
Annual Primary Standard	50 $\mu g/m^3$	Revoked

Source: Prepared by the Congressional Research Service (CRS), with information from the EPA's final PM NAAQS (71 *Federal Register* 61143-61233, Oct. 17, 2006), and related technical documents,[14] available at [http://www.epa.gov/air/particles/actions.html].

EPA's final revisions to the standards for fine particulates ($PM_{2.5}$) are the same as the agency had proposed in January 2006. However, the final 2006 EPA revisions to the $PM_{2.5}$ NAAQS, while tightening the standards, are not as stringent as those recommended by the CASAC and by the EPA staff. With regard to coarse particulates, the EPA had proposed replacing the current particle size indicator of PM_{10} with a range of 10 to 2.5 micrometers ($PM_{10-2.5}$), referred to as inhalable (or thoracic) coarse particles, and setting a $PM_{10-2.5}$ *daily* standard of 70 $\mu g/m^3$ rather than the current PM_{10} daily standard of 150 $\mu g/m^3$. The proposal also included narrowing the focus of the $PM_{10-2.5}$ standard to "urban and industrial" sources and excluding particles typical to rural areas, including "windblown dust and soils and PM generated by agricultural and mining sources." The range of alternative standards considered and proposed and issues associated with the EPA's final decisions are discussed later in this report.

Promulgation of NAAQS sets in motion a process under which the states and the EPA first identify geographic nonattainment areas, those areas failing to comply with the NAAQS based on monitoring and analysis of relevant air quality data.

The tightening of the $PM_{2.5}$ standards is expected to increase the number of areas (typically defined by counties or portions of counties) in nonattainment. States will

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[13] (...continued)
Jan. 17, 2006.

[14] EPA's final PM staff paper and the CASAC review of the EPA staff paper [http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html].

not be required to meet the new $PM_{2.5}$ standard until April 2015 (April 2020, if qualified for an extension[15]). The EPA estimates that the effective date for the final designations will not be before April 2010 for the revised $PM_{2.5}$ NAAQS. Following formal designation, the states have three years to submit State Implementation Plans (SIPs), which identify specific regulations and emission control requirements that will bring an area into compliance.

The EPA is not requiring new nonattainment designations for PM_{10}, and it does not anticipate any significant incremental cost impacts of this action. A discussion of the potential benefits and cost impacts associated with implementation of the new PM NAAQS follows.

Potential Impacts of the Revised PM NAAQS

As discussed above, in setting and revising the NAAQS, the CAA directs the EPA Administrator to protect public health *with an adequate margin of safety*. This language has been interpreted, both by the agency and by the courts, as requiring standards based on a review of the health impacts, without consideration of the costs, technological feasibility, or other non-health criteria.[16] This being the case, costs and benefits did not play a central role in setting the PM NAAQS. Costs and feasibility are generally taken into account in NAAQS implementation (a process that is primarily a state responsibility).

Nevertheless, the EPA released a regulatory impact analysis (RIA) on October 6, 2006, to meet its obligations under Executive Order 12866 and in compliance with guidance from the White House Office of Management and Budget.[17] The RIA only analyzed the benefits and costs of implementing the $PM_{2.5}$ NAAQS. Citing time, data, and modeling limitations, the EPA did not analyze the benefits and costs of retaining the PM_{10} standard. [18]

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[15] Under section 172(a)(2)(A) of the CAA, the EPA may grant an area an extension of the initial attainment date for one to five years (in no case later than 10 years after the designation date for the area). A state requesting an extension must submit an implementation plan (SIP) by the required deadline that includes, among other things, sufficient information demonstrating that attainment by the initial attainment date is "impracticable."

[16] With regard to the non-relevance of cost considerations, see generally *Whitman v. American Trucking Assns.*, 531 U.S. 457, 465-472, 475-76 (2001).

[17] 58 *Federal Register* 51735, Oct. 4, 1993. See the White House OMB website, *Regulatory Matters* at [http://www.whitehouse.gov/omb/inforeg/regpol.html#rr].

[18] The EPA did not release an RIA assessing the costs and benefits at the time of its January 17, 2006, proposal, but conducted interim and "provisional" analyses regarding certain aspects of potential risk reductions in specific locations associated with an array of $PM_{2.5}$ standards. These analyses did not address national impacts, nor did they address PM_{10} standards. EPA's interim and "provisional" analyses focused primarily on comparisons of potential risk scenarios in specified cities and locales. See EPA's *Particulate Matter Regulatory Actions* website at [http://www.epa.gov/air/particlepollution/actions.html].

The EPA emphasized that the October 2006 RIA differs from typical RIAs in that it does not analyze the regulatory impact of an action and that it is primarily for illustrative purposes. The basis for the benefits calculations are reductions in ambient concentrations of $PM_{2.5}$ resulting from a reasonable, but speculative, array of cost-effective state implementation strategies selected by the EPA for purposes of analysis. The analysis does not model the specific actions that each state will undertake in implementing the new $PM_{2.5}$ NAAQS. The EPA includes a detailed discussion of the limitations and uncertainties associated with the analyses.

EPA's Monetized Benefits and Cost Estimates[19]

The EPA estimated incremental costs of attaining the new $PM_{2.5}$ standard based on a set of assumptions and extrapolations regarding currently designated nonattainment areas, likely control strategies and technologies and their associated engineering costs, emissions inventories and sources, and regional variability. The EPA emphasizes that the technologies and control strategies selected for analysis only illustrate one way for nonattainment areas to reach attainment, and that states will compile and evaluate a variety of programs and adopt those attainment strategies best suited for their specific local conditions. For purposes of comparing costs with monetized benefits, the EPA estimated that the total annual mean social cost of attainment of the new $PM_{2.5}$ NAAQS incremental to attainment of the 1997 standards would be $5.4 billion in 2020.

EPA's estimates of the monetized benefits of complying with the new $PM_{2.5}$ standard reflect the valuation associated with predicted reductions in the incidence of certain health and social welfare effects. In the RIA, the EPA presents a variety of benefits estimates based on several published epidemiological studies, including an American Cancer Society (ACS) Study[20] used in previous RIAs, and the Harvard Six Cities Study,[21] as well as an expert elicitation study conducted by the EPA in 2006.[22] The EPA estimated the total annual monetized benefits of attaining the new $PM_{2.5}$ NAAQS would range from $15 billion to $17 billion based on the mortality function from the ACS study and morbidity function from the published studies. Using the mortality function developed using the expert elicitation in conjunction with the morbidity function from the published studies, the EPA's total annual

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[19] EPA's Regulatory Impact Analysis (RIA) of the 2006 National Ambient Air Quality Standards for Fine Particle Pollution ($PM_{2.5}$), available on EPA's website at [http://www.epa.gov/ttn/ecas/ria.html].

[20] Pope, C. Arden, III, et al. "Particulate Air Pollution as a Predictor of Mortality in a Prospective Study of U.S. Adults." *American Journal of Respiratory and Critical Care Medicine* 151 (1995): 669-674.

[21] Dockery, Douglas W. et al. "An Association Between Air Pollution and Mortality in Six U.S. Cities." *New England Journal of Medicine* 329 (1993): 1753-1759. See also the Health Effects Institute, "Statement: Synopsis of the Particle Epidemiology Reanalysis Project." *Reanalysis of the Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality*, July 2000 (includes Nov. 1, 2001 errata sheet), p. I. ([http://www.healtheffects.org/Pubs/Rean-ExecSumm.pdf]).

[22] See Chapter 5 of the EPA's October 6, 2006, RIA for more detail [http://www.epa.gov/ttn/ecas/ria.html].

benefits are estimated to range from $8 billion to $76 billion in 2020. The EPA's estimated monetized benefits for 2020, like the cost estimates, are based on the EPA's projected compliance schedule and are incremental to compliance with the 1997 $PM_{2.5}$ NAAQS by 2015.

According to the October 6, 2006, RIA, the estimated total annual health and welfare net benefits (subtracting social costs from the monetized benefits) in 2020 of attaining the new $PM_{2.5}$ NAAQS range from $9 billion to $12 billion, based on modeling of morbidity and mortality using published epidemiology studies, and from $2.4 billion to $70 billion, based on derivation from expert elicitation.

The EPA's benefits and cost estimates are in terms of 1999 dollars and are incremental to the agency's modeled attainment strategy for the 1997 $PM_{2.5}$ NAAQS by 2015. The baseline case incorporates expected impacts associated with implementation of recent national regulations addressing emissions from the power generation sector (e.g., the Clean Air Interstate Rule [CAIR]), as well as various mobile sources, that contribute to lowering $PM_{2.5}$ concentrations in future years. **Table 2** below presents a range of the EPA's cost and monetized benefits estimates.

Table 2. EPA's Estimated Total Annual Monetized Benefits and Costs of Attaining Alternative $PM_{2.5}$ NAAQS in 2020

(1999 $ billions)

2006 $PM_{2.5}$ NAAQS (15/35 μg/m³)					
Discount Rate[a]	**Benefits**		**Cost**	**Net Benefits**	
Benefits based on American Cancer Society Study Mortality Function and Published Scientific Literature Morbidity Functions					
3%	$17		$5.4	$12	
7%	$15		$5.4	$9	
Benefits Range based on Expert Elicitation Derived Mortality Function and Published Scientific Literature Morbidity Functions					
	Low Mean	High Mean		Low Mean	High Mean
3%	$9	$76	$5.4	$3.5	$70
7%	$8	$54	$5.4	$2.4	$59

Source: Prepared by the Congressional Research Service from the Environmental Protection Agency's *Regulatory Impact Analysis (RIA) of the 2006 National Ambient Air Quality Standards for Fine Particle Pollution ($PM_{2.5}$)*, Table ES-1, p. ES-7, available on the EPA's website at [http://www.epa.gov/ttn/ecas/ria.html]. Estimates and results have been rounded.

Note: Estimates (costs and benefits) reflect attainment in 2020, which includes implementation of several national programs and are incremental to compliance with the 1997 $PM_{2.5}$ NAAQS.

a. The discount rates are as recommended in the EPA's *Guidelines for Preparing Economic Analyses (2000)* and OMB Circular A-4 (2003).

In addition to the monetized health benefits estimates, the EPA estimated the monetary benefits associated with improvements in visibility in selected Class I national parks and wilderness areas.[23] The EPA primarily used a stated preference approach which estimates values based on sampling surveys asking people what amount of compensation would be equivalent to a defined improvement in environmental quality. Extrapolating the results of a study based on a 1988 survey on recreational visibility value, the EPA estimated visibility "willingness to pay" benefits to be $530 million in 2020 with attainment of the new $PM_{2.5}$ NAAQS.[24]

EPA estimated the cost and benefits of a more stringent alternative $PM_{2.5}$ for purposes of comparative analysis. The comparative results are discussed in the "Potential Concerns and Issues" section of this report.

Potential Health Impacts

The EPA's most recent report on air quality trends[25] reported that nationally, in 2003, fine particle concentrations were the lowest since monitoring began in 1999, and coarse particle concentrations were the second lowest since 1988 (concentrations were lower in 2002). Despite the decline, the EPA reports that there were 62 million people living in 97 counties with monitors measuring fine and coarse particles above the current NAAQS in 2003.

For purposes of illustration, **Table 3** summarizes the EPA's predicted reductions in the incidence of a range of adverse health effects annually in 2020 for the new $PM_{2.5}$ NAAQS (15/35 $\mu g/m^3$), as reported in its RIA. The range of the estimated mean number of reductions in premature deaths is based on the EPA's derivations using the ACS and the Harvard Six-City studies. EPA's mean estimates for the remaining adverse health effects are based on various epidemiology studies. The EPA health effects estimates were a primary component of its derivations of the monetized benefits discussed above.

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[23] Defined as areas of the country such as national parks, national wilderness areas, and national monuments that have been set aside under Section 162(a) of the Clean Air Act to receive the most stringent degree of air quality protection.

[24] See Appendix I *Visibility Benefits Methodology* of the EPA's October 6, 2006, RIA [http://www.epa.gov/ttn/ecas/ria.html].

[25] EPA, *The Particle Pollution Report: Current Understanding of Air Quality and Emissions through 2003*, EPA 454-R-04-002, December 2004 [http://www.epa.gov/airtrends/aqtrnd04/pm.html].

Table 3. EPA's Predicted Reductions in Adverse Health Effects Annually in 2020 Associated with Meeting the New $PM_{2.5}$ NAAQS

Adverse Health Effect	Predicted Reductions[a] (estimated mean)
Premature deaths in individuals with preexisting cardiovascular and respiratory disease	2,500 to 5,700[b]
Cases of chronic bronchitis (age >25)	2,600
Cases of acute bronchitis (age 8-12)	7,300
Nonfatal heart attacks (age >71)	5,000
Hospital admissions for cardiovascular or respiratory symptoms (age >17)	1,630
Emergency room visits for asthma (age <19)	1,200
Cases of aggravated asthma (asthmatics age 6-18)	51,000
Cases of upper and lower respiratory symptoms (asthmatics age 6-18)	97,000
Days when individuals miss work (age 18-75)	350,000
Days when individuals must restrict their activities because of symptoms related to particle pollution (age 18-65)	2,000,000

Source: Prepared by the Congressional Research Service with data based on epidemiology studies presented in Chapter 5 of the Environmental Protection Agency *Regulatory Impact Analysis of the 2006 National Ambient Air Quality Standards for Fine Particle Pollution ($PM_{2.5}$)* Oct. 6, 2006, and available on the EPA's website at [http://www.epa.gov/ttn/ecas/ria.html]. Estimates are rounded by EPA to two significant digits.

a. For consistency with the emissions and benefits modeling, the EPA used national population estimates based on the U.S. Census Bureau projections. U.S. Bureau of Census. 2000. Population Projections of the United States by Age, Sex, Race, Hispanic Origin and Nativity: 1999 to 2100. Population Projections Program, Population Division, U.S. Census Bureau, Available at [http://www.census.gov/population/projections/nation/summary/np-t.txt].

b. The range of estimates reflect the mean estimates derived from the American Cancer Society study and the Harvard Six-City Study, respectively.

In addition to the improved health benefits based on the epidemiology studies, the EPA estimated reductions in premature mortality based on the expert elicitation approach discussed above. The estimates were variable from expert to expert, ranging from a mean of 1,200 to 13,000 avoided premature deaths annually in 2020 resulting from attainment of the new standards (15/35 $\mu g/m^3$) incremental to the EPA's baseline strategy for the 1997 NAAQS (15/65 $\mu g/m^3$).

When promulgating the 1997 $PM_{2.5}$ NAAQS, the EPA estimated that compliance would result in the annual prevention of 15,000 premature deaths, 75,000 cases of chronic bronchitis, and 10,000 hospital admissions for respiratory and cardiovascular disease, as well as other benefits. These estimates have been the subject of significant debate and re-analysis. Since 1998, with dedicated funding from Congress, the EPA accelerated its research and re-analysis on $PM_{2.5}$ to better

understand the potential associated health effects and to develop ways to reduce risks.[26] The funding supported EPA intramural and extramural PM research projects and the establishment of five university-based PM research centers around the country. The EPA's most recent review has increased its confidence in earlier findings associating exposure to $PM_{2.5}$ with increases in respiratory health problems, hospitalizations for heart and lung disease, and premature death, particularly for children, the elderly, and those with preexisting heart and lung disease.[27]

Geographical Nonattainment Areas: Potential Impacts

As described earlier, the Clean Air Act has been interpreted to exclude consideration of the costs, technological feasibility, and other non-health criteria when setting and revising the NAAQS. Nevertheless, costs and feasibility associated with the NAAQS implementation (primarily a state responsibility) are key elements of the debate regarding the new PM NAAQS. The tightening of the $PM_{2.5}$ standards is expected to increase the number of areas (typically defined by counties or portions of counties) in nonattainment, and subsequently result in increased costs to achieve compliance. The current PM_{10} daily (24-hour) standard has been retained at the 1987 level and the annual standard revoked. The EPA is not requiring new nonattainment designations for PM_{10}, and it does not anticipate any significant incremental cost impacts of this action.

Designation of geographical areas and the associated impacts on specific areas would be speculative at best, because implementation of the revised PM NAAQS is several years off. Initially, areas will be designated nonattainment if they exceed the standard in 2006-2008. States will not be required to meet the new $PM_{2.5}$ standard until April 2015 (April 2020, if qualified for an extension[28]). With regard to the 1997 $PM_{2.5}$ NAAQS, states are required to submit implementation plans for how they will meet the standard by April 2008 and must be in compliance by 2010, unless they are granted a five-year extension.[29]

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[26] Congress increased EPA's appropriations for particulate matter research from $18.8 million in FY1997 (H.Rept. 104-812) to $49.6 million in FY1998 (H.Rept. 105-297). PM research appropriations averaged more than $60 million per year from FY1999 through FY2004, and Congress provided $60.5 million for FY2005. Congress did not identify PM research funding in EPA's FY2006 appropriation but included $66.8 million for NAAQS research (H.Rept. 109-465).

[27] EPA criteria and technical documents in support of the Oct. 17, 2006, final PM NAAQS, the Dec. 20, 2005, proposal, and the 1997 NAAQS, are available at [http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html].

[28] Under section 172(a)(2)(A) of the CAA, the EPA may grant an area an extension of the initial attainment date for one to five years (in no case later than 10 years after the designation date for the area). A state requesting an extension must submit an implementation plan (SIP) by the required deadline that includes, among other things, sufficient information demonstrating that attainment by the initial attainment date is "impracticable."

[29] For more information on the implementation of the 1997 $PM_{2.5}$ NAAQS promulgated in 1997, see CRS Report RL32431, *Particulate Matter ($PM_{2.5}$): National Ambient Air Quality*

(continued...)

Following formal designation (the EPA estimates that the effective date for the final designations will not be before April 2010 for the revised $PM_{2.5}$ NAAQS), the states have three years to submit State Implementation Plans (SIPs), which identify specific regulations and emission control requirements that will bring an area into compliance. If new or revised SIPs for attainment establish or revise a transportation-related emissions allowance ("budget"), or add or delete transportation control measures (TCMs), they will trigger "conformity" determinations. Transportation conformity is required by the CAA, Section 176(c),[30] to prohibit federal funding and approval for highway and transit projects unless they are consistent with ("conform to") the air quality goals established by a SIP, and will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

Implementation of the 1997 PM standard — delayed several years by litigation, the lack of monitoring capability, and other factors — is ongoing. The EPA's recent final designation of 39 geographical areas, composed of 208 counties in 20 states and the District of Columbia, in nonattainment with the $PM_{2.5}$ NAAQS (those areas with or contributing to air quality levels exceeding the annual and 24-hour standards) became effective on April 5, 2005. A direct national comparison of nonattainment areas for the 1997 standard and the newly revised $PM_{2.5}$ NAAQS is not available. However, in conjunction with the January 17, 2006, proposal, the EPA projected that the numbers of counties with monitors that would not attain the new $PM_{2.5}$ NAAQS could increase from 116 counties (those with monitors within the total 208 counties), based on the current standard, to 191, with the proposed $PM_{2.5}$ NAAQS, by 2010. Taking into account those areas without monitors but contributing to air quality levels exceeding the standard, and other factors considered by the agency when determining the designations, the total number of counties to be in nonattainment with the new $PM_{2.5}$ NAAQS is likely to be even larger.

Table 4 summarizes the EPA's nonattainment designation projections of counties with monitors for 2010 and 2015, based on the 1997 $PM_{2.5}$ standard, the new standard, and other alternative $PM_{2.5}$ standards that the EPA considered at the time of its proposal. The EPA notes that its projections are based on 2001-2003 monitoring data, whereas the actual nonattainment designations would be based on monitoring data from later years.[31] The EPA's projections also take into account those PM reductions that the agency expects will occur as the result of air quality

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[29] (...continued)
Standards (NAAQS) Implementation, by Robert Esworthy.

[30] 42 U.S.C. 7506(c).

[31] Revisions to Ambient Air Monitoring Regulations, final rule, 71 *Federal Register* 61235-61328, Oct. 17, 2006. In a separate but related action, EPA amended its national air quality monitoring requirements, including those for monitoring particle pollution, to help federal, state, and local air quality agencies "improve public health protection and inform the public about air quality in their communities" by taking advantage of improvements in monitoring technology. Information on the changes are available at [http://www.epa.gov/air/particlepollution/actions.html].

regulations promulgated in 2005,[32] including the Clean Air Interstate Rule (CAIR), the Clean Air Mercury Rule (CAMR), and the Clean Air Visibility Rule (CAVR).

Table 4. Counties with Monitors Projected by Epa to Be in Nonattainment of the 1997, New (2006), and Alternative $Pm_{2.5}$ Naaqs

$PM_{2.5}$ NAAQS Options (24-hour and annual $\mu g/m^3$)	2010			2015 with CAIR/CAVR/CAMR		
	National	East	West	National	East	West
15/65 — 1997 $PM_{2.5}$ NAAQS	116	102	14	32	18	14
15/35 — new (2006)	191	141	50	76	30	46
14/35	235	185	50	96	50	46
15/30	326	264	62	178	116	62

Source: Prepared by the Congressional Research Service with data presented in the *EPA White Paper Preliminary Analyses of Proposed $PM_{2.5}$ NAAQS Alternatives, Office of Air Quality Planning and Standards*, Office of Air and Radiation, December 21, 2005, available at [http://epa.gov/pm/pdfs/whitepaper20051220.pdf].

Notes: CAIR = Clean Air Interstate Rule, CAMR= Clean Air Mercury Rule, and CAVR = the Clean Air Visibility Rule, promulgated in 2005.

Potential Concerns and Issues

Congress and a wide variety of stakeholders have closely followed the development of the new PM NAAQS. Most recently, during the 109th Congress the Senate Committee on Environment and Public Works and the committee's Subcommittee on Clean Air, Climate Change, and Nuclear Safety have held hearings regarding implementation and review of the PM NAAQS.[33] Well before the EPA formally proposed revising the NAAQS, stakeholders were providing evidence and arguments at public hearings and other forums for their preferred recommendations. In general, business and industry oppose more stringent standards, and public health and environmental interest groups advocate tighter standards. The EPA received thousands of comments during various stages of development of the PM criteria document and in response to drafts of the EPA PM staff paper. The agency reported

[32] For more information on these and other recent EPA's air quality regulations, see [http://www.epa.gov/cleanair2004/].

[33] U.S. Senate Committee on Environment and Public Works, full Committee, *The Science and Risk Assessment Behind the EPA's Proposed Revisions to the Particulate Matter Air Quality Standards*, July 19, 2006; Subcommittee on Clean Air, Climate Change, and Nuclear Safety, *EPA's Proposed Revisions to the Particulate Matter Air Quality Standards*, July 13, 2006, and *Implementation of the Existing Particulate Matter and Ozone Air Quality Standards*, Nov. 10, 2005.

receiving more than 120,000 comments in response to the January 2006 PM NAAQS proposal.

The Administrator's proposed and final decisions represent the first time in CASAC's nearly 30-year history that the promulgated standards fall outside of the range of the scientific panel's recommendations. In letters dated March 21, 2006, and September 29, 2006, the CASAC raised its concerns and objections regarding both PM_{10} and $PM_{2.5}$ standards. The Administrator is not required by statute to follow CASAC's recommendations; the act (in Section 307(d)(3)) requires only that the Administrator set forth any pertinent findings, recommendations, and comments by CASAC and the National Academy of Sciences, and, if his proposal differs in an important respect from any of their recommendations, provide an explanation of the reasons for such differences. Courts, in reviewing EPA regulations, also generally defer to the Administrator's judgment on scientific matters, focusing more on issues of procedure, jurisdiction, and standing. Nevertheless, CASAC's detailed objections to the Administrator's decisions and its description of the process as having failed to meet statutory and procedural requirements could play a role if the standards are challenged in court.

At the time of its January 2006 proposal, the agency solicited comment (90-day comment period from the date of publication in the *Federal Register*) regarding its supporting analysis and a variety of alternative PM NAAQS. In addition to soliciting written comments, the EPA held public hearings in early March 2006 in Philadelphia, Chicago, and San Francisco. As presented in its rationale for the final standards throughout the preamble of the final rule, in some cases the EPA has revised elements of its proposal based on certain comments; in other cases the EPA lays out its reasoning for disagreeing. EPA's final modifications to the existing PM NAAQS have sparked interest and conflicting concerns among a diverse array of stakeholders and in Congress. The following sections highlight several areas of interest.

Fine Particulate ($PM_{2.5}$) Primary (Health) Standards

The final revised $PM_{2.5}$ NAAQS, which are the same as proposed, are not as stringent as the levels recommended by the independent CASAC and those recommended by EPA professional staff, as noted above. EPA staff and CASAC recommendations for $PM_{2.5}$ included a range of levels more stringent than those proposed in January and finalized September of 2006. In particular, the majority of the CASAC panel "*did not endorse the option of keeping the annual standard at its present value*." According to the CASAC:

> Of the options presented by EPA staff for lowering the level of the PM standard, based on the above considerations and the predicted reductions in health impacts derived from the risk analyses, most Panel members favored the option of setting a 24-hour $PM_{2.5}$ NAAQS at concentrations in the range of 35 to 30 $\mu g/m^3$ with the 98th percentile form, in concert with an annual NAAQS in the range of 14 to 13 $\mu g/m^3$. [34]

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[34] CASAC PM Review Panel report, p. 7, June 2005 [http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html].

Table 5 compares the CASAC and EPA staff recommendations for $PM_{2.5}$ primary standards, the 1997standards, and 2006 standards as proposed and promulgated.

Table 5. $PM_{2.5}$ Primary (Health) NAAQS: Final (2006), Proposed and Alternatives, and as Promulgated in 1997

$PM_{2.5}$ NAAQS Options	24-hour Primary (98th percentile)	Annual Primary (arithmetic mean)
1997 NAAQS	65 $\mu g/m^3$	15 $\mu g/m^3$
EPA staff paper (December 2005)	mid to lower range of 35-25 $\mu g/m^3$	15 $\mu g/m^3$
	or	
	mid to lower range of 40-30 $\mu g/m^3$	14-12 $\mu g/m^3$
CASAC (December 2005)	35-30 $\mu g/m^3$	14-13 $\mu g/m^3$
EPA Proposed Rule (January 2006)	35 $\mu g/m^3$	15 $\mu g/m^3$
EPA Final Rule (October 2006)	35 $\mu g/m^3$	15 $\mu g/m^3$

Source: Prepared by the Congressional Research Service (CRS), with information from the EPA's final PM NAAQS (71 *Federal Register* 61143-61233, Oct. 17, 2006), the EPA's proposed PM NAAQS (71 *Federal Register* 2620, Dec. 20, 2005), and related technical documents,[35] available at [http://www.epa.gov/air/particles/actions.html].

In response to the discrepancies between the proposal and the CASAC recommendations, EPA Administrator Stephen Johnson indicated that his decision required consideration of a number of factors and "judgment based upon an interpretation of the evidence." The Administrator relied on the evidence of long-term exposure studies as the principal basis for retaining the annual $PM_{2.5}$ standard.[36] CASAC strongly disagreed with the Administrator's decision regarding the $PM_{2.5}$ annual standard and took the unprecedented step of urging reconsideration of the proposal.[37]

Many public comments received on the EPA's proposed revisions to the $PM_{2.5}$ standards, most frequently from environmental and public health organizations, medical doctors and researchers, and the association representing state air quality

[35] EPA's final PM staff paper and the CASAC review of the EPA staff paper (see references earlier in this report).

[36] For the EPA Administrator's rationale for proposing to retain the current level for the annual $PM_{2.5}$ standard and recognition of the CASAC's recommendation not endorsing this approach, see 71 *Federal Register* 2650-2653, Jan. 17, 2006.

[37] Letter of Dr. Rogene Henderson, Chair, Clean Air Scientific Advisory Committee, to the Hon. Stephen Johnson, Administrator, U.S. EPA, Mar. 21, 2006, available at [http://www.epa.gov.sab/pdf/casac-ltr-06.002.pdf], or from the federal docket for the proposed rule Docket ID No. EPA-HQ-OAR-2001-0017, on the Federal Docket website [http://www.regulations.gov/fdmspublic/component/main].

regulators,[38] argue for standards as stringent or more stringent than those recommended by CASAC. In contrast, another group of commenters, generally representing industry associations and businesses, opposed revising the 1997 $PM_{2.5}$ standards, in some cases highlighting different aspects of the same research cited by the CASAC and others supporting tighter standards.[39] Some who opposed more stringent PM NAAQS called attention to more recent studies of health effects attributable to PM that demonstrate risk estimates are lower and less statistically significant than they were in 1997, when the last standard was set.[40]

In Section II of the preamble of the final October 2006 revisions, "Rationale for Final Decisions on Primary $PM_{2.5}$ Standards," the EPA discusses its final decision with respect to the CASAC recommendations regarding the $PM_{2.5}$ annual standard. The Administrator differs with the CASAC with regard to the level of uncertainty associated with the agency's quantitative risk assessment and whether the results appropriately serve as a primary basis for a decision on the level of the annual $PM_{2.5}$ standard. The Administrator further stressed the emphasis placed on the long-term means of the levels associated with mortality effects in the two key long-term studies[41] in determining the level of the annual standard. CASAC considered the evidence from specific short-term exposure studies as part of the basis for its recommendation for a lower annual standard level. As noted above, the CASAC expressed its objections to the EPA's final PM NAAQS in its September 29, 2006, letter to Administrator Johnson.[42]

With regard to $PM_{2.5}$, the letter stated: "CASAC is concerned that the EPA did not accept our finding that the annual $PM_{2.5}$ standard was not protective of human health and did not follow our recommendation for a change in that standard."[43] The letter noted that "*there is clear and convincing scientific evidence that significant adverse human-health effects occur in response to short-term and chronic particulate matter exposures at and below 15 µg/m*^{3}," and noted that 20 of the 22 Particulate Matter Review Panel members, including all seven members of the statutory committee were in "complete agreement" regarding the recommended reduction. "*It is the CASAC's consensus scientific opinion that the decision to retain without*

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[38] Personal communication with Mr. William Becker, Executive Director, State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (STAPPA/ALAPCO), Jan. 5, 2006.

[39] For EPA's discussion and response to several of these comments, see 71 *Federal Register* 61143-61233, Oct. 17, 2006, Part II *Rationale for Final Decisions on Primary $PM_{2.5}$ Standards*, Sections B and F, on EPA's website at [http://epa.gov/pm/actions.html].

[40] Communication with Mr. Frank Maisano, Media Contact for the Electric Reliability Coordinating Council, Jan. 17, 2006.

[41] 71 *Federal Register* at 2651, Jan. 17, 2006.

[42] Letter of Dr. Rogene Henderson, Chair, Clean Air Scientific Advisory Committee, to the Hon. Stephen Johnson, Administrator, U.S. EPA, Sept. 29, 2006, available at [http://www.epa.gov/sab/pdf/casac-ltr-06-003.pdf].

[43] Letter of Rogene Henderson, Chair of the Clean Air Scientific Advisory Committee, et al. to Hon. Stephen L. Johnson, EPA Administrator, September 29, 2006, available at [http://www.epa.gov/sab/pdf/casac-ltr-06-003.pdf].

change the annual $PM_{2.5}$ standard does not provide an 'adequate margin of safety ... requisite to protect the public health' (as required by the Clean Air Act) ...."[44]

Potential Health Benefits of a More Stringent $PM_{2.5}$ Standard. In its RIA, the EPA estimated the nationwide monetized human health and welfare benefits of attaining two suites of $PM_{2.5}$ NAAQS: (1) the newly revised $PM_{2.5}$ NAAQS, which include the new 35 $\mu g/m^3$ daily (24-hour) standard and the unchanged 15 $\mu g/m^3$ annual standard, and (2) an alternative standard similar to the least stringent of the CASAC recommendations that includes a tighter annual standard of 14 $\mu g/m^3$ and the same 35 $\mu g/m^3$ daily (24-hour) standard. As discussed previously, the EPA presented a variety of benefits estimates based on several epidemiological studies, the American Cancer Society (ACS) Study[45] used in previous RIAs, the Harvard Six-Cities Study,[46] and expert elicitation study conducted by the EPA in 2006.[47]

The EPA estimated that attainment of the more stringent alternative $PM_{2.5}$ NAAQS would result in $26 billion to $30 billion of total annual benefits in 2020, based on the ACS mortality function. This compares to a range of $15 billion to $17 billion estimated for compliance with the newly promulgated $PM_{2.5}$ NAAQS (see **Table 2** and discussion earlier in this report). EPA's estimate of annual benefits derived using the expert elicitation ranged from $15 billion to $140 billion for the more stringent alternative, compared to the agency's estimates of $8 billion to $76 billion for compliance with the new standard. EPA also estimated the monetary benefits ("willingness to pay") associated with improvements in visibility in selected Class I national parks and wilderness areas would be $1.2 billion in 2020 with attainment of the more stringent alternative $PM_{2.5}$ standard analyzed, compared to $530 million with attainment of the newly revised $PM_{2.5}$ NAAQS.[48] EPA estimated the total annual cost associated with attainment of the alternative $PM_{2.5}$ NAAQS analyzed would be $7.9 billion in 2020, compared to $5.4 billion.

As discussed previously, a key component of the EPA's monetized benefits estimates are the agency's predicted reductions in the incidence of premature deaths and a range of adverse health effects annually in 2020 associated with compliance of PM NAAQS. For example, for the more stringent attainment strategy analyzed

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[44] Ibid. Italics in original.

[45] Pope, C. Arden, III, et al. "Particulate Air Pollution as a Predictor of Mortality in a Prospective Study of U.S. Adults." *American Journal of Respiratory and Critical Care Medicine* 151 (1995): 669-674.

[46] Dockery, Douglas W. et al. "An Association Between Air Pollution and Mortality in Six U.S. Cities." *New England Journal of Medicine* 329 (1993): 1753-1759. See also the Health Effects Institute, "Statement: Synopsis of the Particle Epidemiology Reanalysis Project." *Reanalysis of the Harvard Six Cities Study and the American Cancer Society Study of Particulate Air Pollution and Mortality*, July 2000 (includes Nov. 1, 2001 errata sheet), p. I. ([http://www.healtheffects.org/Pubs/Rean-ExecSumm.pdf]).

[47] See Chapter 5 of the EPA's October 6, 2006, RIA for more detail [http://www.epa.gov/ttn/ecas/ria.html].

[48] See Appendix I *Visibility Benefits Methodology* of the EPA's October 6, 2006, RIA [http://www.epa.gov/ttn/ecas/ria.html].

(14/35 µg/m^3), the EPA estimated 2,200 to 24,000 fewer premature deaths based on the expert elicitation. For purposes of illustration, **Table 6** provides a comparison of EPA's predicted reductions annually for the new $PM_{2.5}$ NAAQS (15/35 µg/m^3) with a more stringent alternative analyzed (14/35 µg/m^3), based on data from the ACS and Harvard Six-City studies, and various epidemiology studies.

Table 6. EPA's Predicted Reductions in Adverse Health Effects Annually in 2020 Associated with Meeting the New $PM_{2.5}$ NAAQS and a More Stringent Alternative

Adverse Health Effect	Predicted Reductions[a] (estimated mean)	
	$PM_{2.5}$ NAAQS (15/35 µg/m^3)	More Stringent Alternative (14/35 µg/m^3)
Premature deaths in individuals with preexisting cardiovascular and respiratory disease	2,500 to 5,700[b]	4,000 to 9,000[b]
Cases of chronic bronchitis (age >25)	2,600	4,600
Cases of acute bronchitis (age 8-12)	7,300	13,000
Nonfatal heart attacks (age >71)	5,000	8,700
Hospital admissions for cardiovascular or respiratory symptoms (age >17)	1,630	3,080
Emergency room visits for asthma (age <19)	1,200	3,200
Cases of aggravated asthma (asthmatics age 6-18)	51,000	79,000
Cases of upper and lower respiratory symptoms (asthmatics age 6-18)	97,000	153,000
Days when individuals miss work (age 18-75)	350,000	550,000
Days when individuals must restrict their activities because of symptoms related to particle pollution (age 18-65)	2,000,000	3,300,000

Source: Prepared by the Congressional Research Service with data based on epidemiology studies presented in Chapter 5 of the Environmental Protection Agency *Regulatory Impact Analysis of the 2006 National Ambient Air Quality Standards for Fine Particle Pollution ($PM_{2.5}$)* Oct. 6, 2006, and available on the EPA's website at [http://www.epa.gov/ttn/ecas/ria.html]. Estimates are rounded by EPA to two significant digits.

a. For consistency with the emissions and benefits modeling, the EPA used national population estimates based on the U.S. Census Bureau projections. U.S. Bureau of Census. 2000. Population Projections of the United States by Age, Sex, Race, Hispanic Origin and Nativity: 1999 to 2100. Population Projections Program, Population Division, U.S. Census Bureau, Available at [http://www.census.gov/population/projections/nation/summary/np-t.txt].

b. The range of reductions in premature deaths estimates reflect the mean estimates derived from the American Cancer Society study and the Harvard Six-City Study, respectively.

The estimates EPA derived from an expert elicitation approach were only for mortality. The results were variable from expert to expert, ranging from a mean of 2,200 to 24,000 avoided premature deaths annually in 2020 resulting from attainment of the more stringent alternative standard (14/35 $\mu g/m^3$) incremental to the EPA's baseline strategy for the 1997 NAAQS (15/65 $\mu g/m^3$). For attainment of the new standards (15/35 $\mu g/m^3$), EPA estimated 1,200 to 13,000 fewer premature deaths based on the expert elicitation.

Coarse Particulate (PM_{10}) Primary Standards

Particle Size Indicator. The EPA and most of the CASAC panel members concluded that there was a lack of evidence (often a lack of studies) on long-term adverse health effects of specific PM_{10} measurements to support the annual standard, and that there was a specific need to address particles ranging in size from 2.5 to 10 microns.[49] EPA's January 17, 2006, proposal would have replaced the existing particle size indicator of 10 micrometers (PM_{10}) with an indicator range of 10 to 2.5 micrometers ($PM_{10-2.5}$), referred to as inhalable (or thoracic) coarse particles, and setting a $PM_{10-2.5}$ *daily* standard of 70 $\mu g/m^3$ rather than the current PM_{10} daily standard of 150 $\mu g/m^3$. At the time of its proposal, the EPA concluded that the scientific evidence supported the standard based on short-term exposure to certain coarse particles, particularly in urban and industrial areas.

In the final PM NAAQS revisions, the EPA decided to maintain the PM_{10}, citing the limited body of evidence on health effects associated with thoracic coarse particles from studies that use $PM_{10-2.5}$ measurements. The agency also determined that the only studies of clear quantitative relevance to health effects most likely associated with thoracic coarse particles used PM_{10}. The new PM NAAQS retain the PM_{10} indicator and the *daily* (24-hour) standard of 150 $\mu g/m^3$.

In its September 29, 2006, letter, the CASAC said it was "completely surprised" at the decision to revert to the use of PM_{10} as the indicator for coarse particles, noting that the option of retaining the existing daily PM_{10} standard was not discussed during the advisory process and that CASAC views this decision as "highly-problematic since PM_{10} includes both fine and coarse particulate matter." The CASAC did agree that having a standard for PM_{10} was better than no standard.

The EPA indicated that it is promulgating a new federal reference method (FRM) for measurement of mass concentrations of $PM_{10-2.5}$ in the atmosphere as the standard of reference for measurements of $PM_{10-2.5}$ concentrations in ambient air. The EPA anticipates that the new FRM should provide a basis for gathering scientific data to support future reviews of the PM NAAQS.[50] According to the EPA, these

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[49] Clean Air Scientific Advisory Committee (CASAC) Review of the EPA Staff Recommendations Concerning a Potential Thoracic Coarse PM Standard in the *Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information* (Final PM OAQPS Staff Paper, EPA-452/R-05-005, June 2005), Sept.15, 2005, [http://www.epa.gov/sab/panels/casacpmpanel.html].

[50] 71 *Federal Register* 61143-61233, Oct. 17, 2006, *Section VI. Reference Methods for the* (continued...)

monitors will employ the latest in speciation technology to advance the science, enabling future regulation to provide more targeted protection.

The EPA's January 17, 2006, proposal to change the indicator of the standard for coarse particles was in response to a 1999 U.S. Court of Appeals for the DC Circuit decision[51] directing the EPA to ensure that the standard did not duplicate the regulation of fine particles. The EPA's standard for PM_{10}, as modified by the 1997 changes to the PM NAAQS, was challenged shortly after promulgation. Concluding that PM_{10} was a "poorly matched indicator" for thoracic coarse particles because it included the smaller $PM_{2.5}$ category as well as the larger particles, the Court of Appeals remanded the standard to the EPA. The agency now contends that it has addressed the concerns raised by the court regarding PM_{10} as an indicator for inhalable coarse particulate matter in its rationale in the final PM NAAQS, announced September 21, 2006.[52] This is an issue that could potentially be challenged in litigation.

Rural PM_{10} Sources. In addition to the changes to the coarse PM indicator, the EPA had proposed narrowing the focus of the $PM_{10-2.5}$ standard on "urban and industrial" sources — particles typical to rural areas including "*windblown dust and soils and PM generated by agricultural and mining sources*" would *not* be subject to this standard. Additionally, the EPA proposed revoking the current 24-hour PM_{10} standards, except in areas that have 1) violating monitors, and 2) a population of 100,000 or more. The emphasis on urban and industrial areas in the January 2006 proposal was based on the findings reported in the Criteria Document, the PM staff paper, and the CASAC conclusion that "the evidence for the toxicity of $PM_{10-2.5}$ comes from studies conducted primarily in urban areas and is related, in large part, to the re-entrainment of urban and suburban road dusts, as well as primary combustion products."[53]

The EPA's proposal to exclude any ambient mix of $PM_{10-2.5}$ that is dominated by rural windblown dust and soils and PM generated by agricultural and mining sources, and how the EPA would distinguish the sources during its implementation, raised a number of questions and resulted in numerous comments. In response to the proposal, in its March 21, 2006, letter to the EPA Administrator, the CASAC stated that while it had recognized the scarcity of information on the toxicity of rural dust, it "neither foresaw nor endorsed a standard that specifically exempts all agricultural and mining sources, and offers no protection against episodes of urban-industrial $PM_{10-2.5}$ in areas of populations less than 100,000." The committee strongly

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[50] (...continued)
Determination of Particulate Matter as $PM_{10-2.5}$ and $PM_{2.5}$ [http://epa.gov/pm/actions.html].

[51] *American Trucking Assns. v. EPA*, 175 F.3d 1027, 1054-55 (D.C. Cir. 1999).

[52] 71 *Federal Register* 61143-61233, Oct. 17, 2006, Section III.C.3. *Decision Not to Revise PM_{10} Indicator*, available at [http://epa.gov/pm/actions.html].

[53] CASAC review. CASAC reviews, the PM criteria document, staff paper, and related information, are available at [http://www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html].

recommended "expansion of our knowledge of the toxicity of $PM_{10-2.5}$ dusts rather than exempting specific industries (e.g., mining, agriculture)."[54]

Several Members of the House Committee on Agriculture submitted a letter to EPA Administrator Stephen Johnson in July 2006 conveying support for the agency maintaining its provision to exclude agriculture and mining dust and similar sources of coarse PM in the PM NAAQS, as had been proposed.[55] The EPA indicated that with the exception of representatives of those sources that would have been excluded under the proposal (e.g., agriculture and mining), most commenters opposed the exclusion. Those opposed included environmental and public health groups, state and local agencies, and industries not excluded from the proposed indicator (e.g., transportation and construction).

The EPA did not exclude any areas or the types of particle in the final PM NAAQS revisions, based on further consideration of the data and in response to comments. In its rationale for the final PM_{10} standard, the EPA continued to acknowledge that there is far more evidence concerning health effects associated with thoracic coarse particles in urban areas than in non-urban areas. However, the EPA also stated that "the existing evidence is inconclusive with regard to whether or not community-level exposures to thoracic coarse particles are associated with adverse health effects in non-urban areas."[56] The EPA indicated that it is expanding its research and monitoring[57] programs to collect additional evidence on the differences between coarse particles typically found in urban areas and those typically found in rural areas. The EPA announced the release of a final rule amending its national air quality monitoring requirements on September 27, 2006.[58]

In contrast to objections regarding other aspects of EPA's final PM NAAQS revisions, the CASAC agreed with the EPA decision against including exemptions in its September 29, 2006, letter to the EPA Administrator. However, a number of those representing agriculture interests, including some Members of Congress, remain concerned that EPA's decision not to include the exclusions in the final PM NAAQS will result in unnecessary burdens on the agricultural community. Some Members of the House Committee on Agriculture expressed their concerns with the

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[54] Letter of Dr. Rogene Henderson, Chair, Clean Air Scientific Advisory Committee, to the Hon. Stephen Johnson, Administrator, U.S. EPA, Mar. 21, 2006, available at [http://www.epa.gov/sab/panels/casacpmpanel.html], or from the federal docket for the proposed rule Docket ID No. EPA-HQ-OAR-2001-0017, on the Federal Docket website [http://www.regulations.gov/fdmspublic/component/main].

[55] Letter to EPA Administrator Stephen L. Johnson, from the Chairman, the Ranking Member, and other Members of the House Committee on Agriculture, July 27, 2006.

[56] 71 *Federal Register* 61143-61233, Oct. 17, 2006, Section III.C.3, *Decision Not to Revise PM_{10} Indicator*, available at [http://epa.gov/pm/actions.html].

[57] 71 *Federal Register* 61236-61328, Oct. 17, 2006.

[58] 71 *Federal Register* 61143-61233, Oct. 17, 2006, at [http://epa.gov/pm/actions.html].

EPA's final actions with regard to the exemptions at a September 28, 2006, hearing regarding the EPA's pesticide programs.[59]

Secondary $PM_{2.5}$ and PM_{10} Standards

The EPA proposal, and the final PM NAAQS, set the secondary standard for PM_{10} and for $PM_{2.5}$ at the same level as their primary standard. The PM staff paper and the CASAC both recommended secondary standards at levels different from the primary in order to be more protective of visibility, and the CASAC reiterated the recommendations in its March 21, 2006, and September 29, 2006, letters to the EPA Administrator. For $PM_{2.5}$, the EPA PM staff paper and most of CASAC panel recommended consideration of a sub-daily standard with a level in the range of 20 to 30 $\mu g/m^3$ for a four- to eight-hour midday time period, with a 92^{nd} to 98^{th} percentile form, as opposed to the primary daily standard at 35 $\mu g/m^3$, based on the current three-year average of the 98^{th} percentile of 24-hour $PM_{2.5}$ concentrations. Although the CASAC agreed with setting a secondary standard at the same level as the primary standard based on the coarse PM indicator $PM_{10-2.5}$, the committee recommended that the standard not be limited to urban areas, as the EPA had proposed.

Exclusion of More Recent Research

A number of stakeholders commented that EPA should have considered certain studies that were published too recently to have been included in the 2004 criteria document that, they argued, increased the uncertainty about possible health risks associated with exposure to particulates. Others contend that there are new studies (some of them the same) in support of their arguments for a lower (more stringent) level to protect health. Some commenters, opposed to more stringent standards, argued that the agency should delay its decision regarding the PM NAAQS to take into consideration several of these studies. At the time of the proposal the EPA declared its intention to review and evaluate significant new studies developed since 2002, and those published since the close of the criteria document, during the comment period.[60] With the release of its final PM NAAQS revisions, the EPA acknowledged that these studies provided expansion of the science and some insights regarding PM exposure and related health effects, but determined that the new data "do not materially change any of the broad scientific conclusions regarding the health effects of PM exposure made in the 2004 PM Air Quality Criteria Document."[61]

Synopses of Stakeholder Reaction to the New PM NAAQS

Based on the EPA's references to the comments in the preamble to the final PM NAAQS revisions published October 17, 2006; a review of several comments in the

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[59] House Committee on Agriculture, Subcommittee on Conservation, Credit, Rural Development, and Research, *Review of the Environmental Protection Agency's Pesticide Program*, Sept.28, 2006.

[60] 71 *Federal Register* 2625, Jan. 17, 2006 ([http://epa.gov/pm/actions.html]).

[61] 71 *Federal Register* 61143-61233, Oct. 17, 2006 ([http://epa.gov/pm/actions.html]).

Federal Docket for the January 17, 2006, proposal; and several media articles and available press releases, views of proponents and critics of stricter standards are summarized below.

Proponents of more stringent standards generally assert that

- the standards should be at least as stringent as the more stringent combined daily and annual levels recommended in the EPA PM staff paper and those recommended by the CASAC, based on its review of the criteria and the EPA staff analysis;
- scientific evidence of adverse health effects is more compelling than when the standards were revised in 1997;
- exclusion of rural sources from the coarse particle (PM_{10}) standard would not be sufficiently protective of human health and would be difficult to distinguish and implement;
- more stringent standards ensure continued progress toward protection of public health with an adequate margin of safety as required by the CAA, in addition to avoidance of other adverse health effects; and
- welfare effects, such as visibility, crop yield, and forest health, will be enhanced.

Critics of more stringent PM NAAQS contend that

- more stringent standards (and in some cases even the 1997 standards) are not justified by the scientific evidence; the proposal did not take into account hundreds of studies completed since the 2002 cut-off;
- requiring the same level of stringency for all fine particles without distinguishing sources is unfounded;
- costs and adverse impacts on regions and sectors of the economy are excessive; some commenters identified as "urban" sources contend exemption of rural particles may result in a disproportional compliance burden;
- those identified as "rural" sources contend exemption of rural particles is warranted by the lack of evidence regarding adverse effects associated with emission sources in these areas, and that not excluding these areas and sources creates an unnecessary burden;
- revising the standards could impede implementation of the existing PM NAAQS and the process of bringing areas into compliance, given the current status of this process; revisions could also impede

efforts to meet air quality regulations promulgated in 2005, such as the Clean Air Interstate Rule (CAIR);[62] and

- the benefits (and costs) associated with implementation of the 1997 PM standard, as well as compliance with recent EPA air quality regulations, have not yet been realized.

Conclusions

EPA's September 21, 2006, announcement of its final modifications to the existing PM NAAQS following completion of its statutorily required review has sparked interest and conflicting concerns among a diverse array of stakeholders, and in Congress.

Tightening the PM NAAQS will result in more areas classified as nonattainment and needing to implement new controls on particulate matter. States and local governments will be required to develop and implement new plans for addressing emissions in those areas that do not meet the new standards. A stricter standard means increased costs for the transportation and industrial sectors most likely to be affected by particulate matter controls, including utilities, refineries, and the trucking industry. In terms of public health, a stricter standard is estimated to result in fewer adverse health effects for the general population and particularly sensitive populations, such as children, asthmatics, and the elderly.

Because of health and cost implications, NAAQS decisions have often been the source of significant concern to many in Congress. The evolution and development of the PM (and ozone) NAAQS, in particular, have been the subject of extensive oversight. When the 1997 PM NAAQS were promulgated, Congress held 28 days of hearings on the EPA rule. Congress enacted legislation specifying deadlines for implementation of the 1997 standard, funding for monitoring and research of potential health effects, and the coordination of the PM (and ozone) standard with other air quality regulations.

The EPA's previous review and establishment of PM NAAQS were the subject of litigation and challenges, including a Supreme Court decision in 2001.[63] The EPA's 1997 promulgation of standards for both coarse and fine particulate matter prompted critics to charge the EPA with overregulation and spurred environmental groups to claim that the EPA had not gone far enough. More than 100 plaintiffs petitioned the court to overturn the standard. Not only was the science behind the PM NAAQS challenged, but opponents, and the DC Circuit Court panel that

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[62] EPA, Clean Air Interstate Rule, Clean Air Mercury Rule, and Clean Air Nonroad Diesel Rule, at [http://www.epa.gov/cleanair2004/].

[63] *American Trucking Ass'ns v. EPA*, 175 F.3d 1027, 1055-56 (D.C. Cir. 1999), rehearing granted in part and denied in part, 195 F.3d 4 (D.C. Cir. 1999), affirmed in part and reversed in part, *Whitman v. American Trucking Ass'ns*, 531 U.S. 457 (2001). In March 2002, the Court of Appeals rejected all remaining challenges to the standards, *American Trucking Ass'ns v. EPA*, 283 F. 3d 355, 369-72 (D.C. Cir. 2002).

considered the case prior to the Supreme Court review, maintained that the CAA as interpreted by the EPA in setting these standards effected "an unconstitutional delegation of legislative power."[64] In its 1999 decision,[65] a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit found "ample support" for the EPA's decision to regulate coarse particle pollution, but vacated the 1997 PM_{10} standards, including the agency's change of the indicator to $PM_{10-2.5}$. Although the EPA's decision to issue the $PM_{2.5}$ standards was upheld in the 1999 and 2001 decisions, for the most part, stakeholders on both sides of the issue continued to advocate their predilection for more stringent or less stringent (and in some cases no) PM standard.

Several elements of the EPA's most recent action, including the level of stringency of the new PM NAAQS based on the supporting criteria, the objections of the CASAC, the agency's decision not to modify the particle size indicator for coarse particulates, and not excluding rural sources from the coarse standard as proposed have already generated debate and controversy. It would not be surprising if interested parties return to the courts to challenge the EPA's newly promulgated final standards. Thus, the final form of the current efforts to revise PM NAAQS may not be known for some time.

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[64] *Whitman v. American Trucking Ass'ns*, 531 U.S. 457 (2001).

[65] *American Trucking Ass'ns v. EPA*, 175 F.3d 1027, 1055-56 (D.C. Cir. 1999).