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Written Statement for Consideration by the Clean Air Scientific Advisory Committee (CASAC)
Ozone Review Panel at the Panel's Teleconference Meeting on February 18, 2011

Dear Committee Members:

This statement is provided by the Petroleum Association of Wyoming (PAW) for consideration by the CASAC Ozone Review Panel at its teleconference meeting on February 18, 2011.

The Petroleum Association of Wyoming (PAW) is a trade association representing the various firms responsible for Wyoming's production of oil and gas, a key contribution to meeting the energy needs of the United States. The PAW members are committed to conducting their activities in conformance with all local, state and federal environmental regulations including the State of Wyoming's attainment of all the National Ambient Air Quality Standards (NAAQS) including those for ozone. Thus, PAW's members have a vital interest in the NAAQS for ozone. PAW members have followed closely over the past decade the EPA's activities to review and revise the ozone standard. During that time PAW members have worked closely with the State of Wyoming, local government and community groups to create and implement effective

strategies to limit ambient ozone levels by reducing emissions of the ozone precursors, hydrocarbons and NO_x. Limiting ozone levels has proved challenging in part because of high background ozone levels that are typical of the high mountain west.

Development of effective strategies for improving air quality is carried out best when the strategies have a long-time horizon. This requires that any changes in the standards be made in an orderly manner on a predictable schedule. Uncertainty in the development of environmental regulations discourages the substantial capital investments that are needed to attempt to meet more stringent NAAQSs.

PAW members fully expect that the setting of NAAQSs will be informed by contemporary scientific knowledge. They also appreciate that scientific information and judgment alone cannot identify the specific elements (indicator, level, averaging time and statistical form) for each NAAQS, these decisions are ultimately policy decisions that are reserved, under the Clean Air Act, to be made by the EPA Administrator.

The current consideration of the Ozone NAAQS is based on papers published in 2005 and earlier reviewed in the 2006 Criteria Document. This document, in turn, served as the basis for the 2007 Staff Paper. The PAW considered that scientific information, with its attendant certainties and uncertainties, as providing a basis for the EPA Administrator selecting a level for an 8-hour averaging time standard as high as 84 ppb, EPA Administrator Johnson, acting within his authority under the Clean Air Act, set the primary ozone NAAQS at 75 ppb in 2008. That decision offered the potential for a stable regulatory environment for ozone for the next five years.

The decision by Administrator Lisa Jackson to “reconsider” the 2008 decision has created substantial uncertainty not only in the regulated community such as the Companies represented by PAW, but also among State Regulatory agencies and local community organizations. The PAW views Administrator Jackson’s action in initiating “reconsideration” of the 2008 ozone NAAQS as arbitrary and capricious and not consistent with the legal intent of the Clean Air Act for periodic review of each NAAQS. The arbitrary nature of the “reconsideration” review has been exacerbated by the ever-changing “deadline” for setting a “reconsideration” standard, initially by the end of August 2010, then late October 2010, then late December 2010, and now by August 2011. With the passage of time the science being considered has become more

outdated. At the same time activities related to the next scheduled review of the Ozone NAAQS triggered by the setting of the 2008 NAAQS appear to be in limbo. This unsettled regulatory environment is troubling to our industry.

The PAW urges the CASAC Ozone Review Panel to recommend to Administrator Jackson that she “withdraw” the 2010 “reconsideration” proposal and, alternatively, initiate action to prepare a review of the currently available published literature on ambient ozone. That review should include papers published in the last five years since and not considered in the 2006 Criteria Document. It is the view of PAW that the scientific information now available may potentially provide a basis for the Administrator to make a policy decision to set a primary standard at a level higher than the 70 ppb ozone now under consideration. In particular, it is clear that the new science provides an improved understanding of background ambient ozone especially for the western United States. The PAW holds the view that any policy decision made by the EPA Administrator in setting the Ozone NAAQS must consider background ozone levels. The issue of policy relevant background ozone was a major source of uncertainty in setting the 2008 NAAQS at 75 ppb. Thus, it is critically important that any future actions on revising the Ozone NAAQS use the best available scientific information on background levels of ambient ozone. The setting of an Ozone NAAQS without considering that information will result in continued chaos with regard to development and implementation of strategies to improve air quality, especially in western states such as Wyoming.

The PAW would welcome the opportunity to engage in dialogue with the EPA staff and with the CASAC Ozone Review’s Panel on these matters. The PAW is of the opinion that this letter adequately conveys our views on this matter. Thus, we waive our right to request a 5-minute time slot for an oral presentation to the Panel.

Respectfully,

John Robitaille
Vice President