March 24, 2014

Dr. H. Christopher Frey
Chair, EPA Clean Air Scientific Advisory Committee
Science Advisory Board
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Chairman Frey:

The undersigned organizations, representing a broad spectrum of the economy, write to request that you ensure the Clean Air Scientific Advisory Committee's (CASAC) review and recommendations to the Environmental Protection Agency (EPA) related to the ozone national ambient air quality standard (NAAQS) are consistent with all of the Committee's statutory responsibilities. The question as to whether the EPA Administrator can consider economic costs when establishing new NAAQS under the Clean Air Act (CAA) has been settled by the Supreme Court. However, CASAC still has a statutory obligation to advise the Administrator about any adverse economic impacts that may arise from measures—such as fees, mandates, and growth restrictions—involved in attaining a new standard in addition to advising the Administrator on issues that both you and EPA identify concerning appropriate NAAQS based on the latest scientific evidence concerning effects of a pollutant such as ozone in ambient air.

In the case of a NAAQS for ozone, which you are evaluating this week in Chapel Hill, North Carolina, the potential burden of meeting a more stringent standard, according to EPA's estimates, could be as much as *$90 billion annually*. Fulfilling CASAC's mandatory role in this regard will be especially important.

In previous NAAQS reviews, CASAC has failed to adhere to the statute's unambiguous language, which gives our organizations concern that the law is being misinterpreted. In your webinar presentation to the Air and Waste Management Association on January 8, you opined on the statutory criteria that CASAC must follow in advising the Administrator on setting primary and secondary NAAQS. During the webinar, according to a listener who filed comments with CASAC for the upcoming ozone NAAQS meeting, you characterized this duty as a "separate activity," one that is "not really part of the review cycle for any existing NAAQS." Respectfully, we believe this reading of the CAA is incorrect. Nowhere does the statute divorce the requirement to advise the Administrator on the potential adverse effects of a new standard from the other four criteria. Section 109(d)(2) of the CAA introduces CASAC's five advisory criteria with "shall," and the only lawful interpretation is that they should be viewed as a whole, with each accorded equal weight. Below is the relevant provision in full:

> Not later than January 1, 1980, and at five-year intervals thereafter, the committee referred to in subparagraph (A) shall complete a review of the criteria published under section 7408 of this title and the national primary and secondary ambient air quality standards promulgated under this section and shall recommend to the Administrator any new national ambient air quality standards and revisions of existing criteria and standards as may be appropriate under section 7408 of this title and subsection (b) of this section.
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> Such committee *shall* also (i) advise the Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised national ambient air quality standards, (ii) describe the research efforts necessary to provide the required information, (iii) advise the Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity, and (iv) *advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards.*[Emphasis added]

We encourage you not to confuse past action, or inaction, with what the law requires. Former CASAC Chair Roger McClellan has stated that, "I am not aware that CASAC has ever advised EPA to take account of the role of socioeconomic factors, unemployment or other risk factors influencing the health endpoints under consideration." Despite this record, CASAC's duty remains. We hope that as CASAC chairman, facing a potentially $90 billion per year rule, you will see to it that the body includes this important component in your review and recommendations.

There is no contradiction between the prohibition on considering costs in setting standards and providing critical advice to the EPA Administrator about any potential negative economic or public welfare effects from efforts to attain new standards. Those effects can come in the form of unemployment, higher energy and production costs for manufacturers, or hardship to local communities already burdened with regulations tied to existing standards. The latter is essential especially to state policy makers, who have the responsibility under the CAA to develop implementation plans that demonstrate how they will meet new standards.

The undersigned associations are greatly concerned that the implementation of a stricter ozone standard could lead to astronomical costs to U.S. businesses, disrupt energy markets and place a considerable strain on a still recovering economy and job market. Given these considerations, we strongly urge CASAC to abide by its statutory duty of informing the Administrator of the socioeconomic impacts that society will bear in attaining and/or maintaining new standards in the event they are promulgated.

Sincerely,

Air-Conditioning, Heating, and Refrigeration Institute
American Chemistry Council
American Coatings Association, Inc.
American Farm Bureau Federation
American Forest & Paper Association
American Foundry Society
American Fuel & Petrochemical Manufacturers
American Petroleum Institute
American Road & Transportation Builders Association
American Wood Council
Brick Industry Association
California Cotton Ginners Association
California Cotton Growers Association
Colorado Association of Commerce and Industry
Consumer Specialty Products Association
Corn Refiners Association
Council of Industrial Boiler Owners
Industrial Minerals Association – North America
Institute of Makers of Explosives
Institute of Shortening and Edible Oils
International Liquid Terminals Association
Iowa Association of Business and Industry
NAPL/AMSP
National Association for Surface Finishing
National Association of Manufacturers
National Mining Association
National Oilseed Processors Association
NPES The Association for Suppliers of Printing Publishing and Converting Technologies
Pennsylvania Manufacturers' Association
Portland Cement Association
Printing Industries of America
Texas Cotton Ginners Association
U.S. Chamber of Commerce
Utility Air Regulatory Group
Western Agricultural Processors Association
Wisconsin Manufacturers & Commerce

cc: Dr. Holly Stallworth, EPA