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Surprising Critics of the New Clean Air Standards: The U.S. Government

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U.S. Environmental Protection Agency (EPA) Administrator Carol Browner would have us believe that only big business is critical of the new standards for clean air (ground-level ozone and PM_{2.5}) proposed by the EPA last November. But comments from federal agencies submitted during the administration's own interagency review process indicate both serious and enormous concerns within the Clinton administration over the new measures. These concerns pertain both to the economic impact of the standards and the lack of scientific evidence justifying the new standards.

The following lists only some of the major concerns various federal agencies have voiced after reviewing the EPA's proposed National Ambient Air Quality Standards (NAAQS):

COUNCIL OF ECONOMIC ADVISERS, EXECUTIVE OFFICE OF THE PRESIDENT

- **The EPA's projected costs for the new ozone standards vastly underestimate the true costs:** "Costs are high, and the RIA [Regulatory Impact Analysis] understates the true costs of stricter standards by orders of magnitude. ... [The Council of Economic Advisers (CEA)] estimates indicate that the cost of full attainment could be up to \$60 billion.¹" (CEA Comments on Ozone Standards, Draft, to the Office of Information and Regulatory Affairs [OIRA], Office of Management and Budget [OMB], from Alicia Munnell, Member, Council of Economic Advisers, December 13, 1996.)
- **The new ozone standards don't reflect the findings of the EPA's own staff paper which show a weak link between ozone levels and mortality:** "The Staff Paper — which reviews the science on ozone's health effects — indicates that the evidence linking ozone concentrations and mortality is not strong enough to warrant

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¹Note: The EPA's estimated cost for the new ozone standard is up to \$2.5 billion a year.

considering mortality reduction in ... the standards. The benefits presented in the [Regulatory Impact Analysis] RIA ... is not supported by the criteria document.” (CEA Comments on Ozone Standards, December 13, 1996.)

- **Potential benefits from new ozone standards don't justify estimated costs:** “[T]he incremental health-risk reduction for more stringent standards is small, while costs are high.” (Memorandum to OIRA, OMB, from Alicia Munnell, Member, CEA, December 13, 1996.)

DEPARTMENT OF TRANSPORTATION

- **Not enough is known about PM_{2.5}:** “There are major uncertainties about sources, current levels and control strategies for meeting PM_{2.5}.” And: “It appears incomprehensible that the Administration would commit to a new set of standards and new efforts to meet such standards without much greater understanding of the problem and its solutions.” (Letter to Sally Katzen, Administrator, OIRA, OMB, from Frank E. Kruesi, Assistant Secretary for Transportation Policy, Department of Transportation, November 20, 1996.)
- **There are too many “uncertainties and controversies” concerning the new standards:** “[W]e have concerns about the considerable uncertainties and controversies associated with the proposed new standards and their impacts. These make it extremely difficult to evaluate comprehensively the potential impacts of such changes.” (Letter to OMB, November 20, 1996.)
- **Standards for ozone and PM_{2.5} would bring too many areas of the nation into nonattainment:** “The costs and benefits of such a change will bring a significantly larger proportion of the population and more jurisdictions under Federal oversight and procedural burdens.” (Letter to OMB, November 20, 1996.)

“[Standards will] almost certainly impose significant administrative burdens on relatively inexperienced jurisdictions and will seriously complicate the requirements for many existing non-attainment areas.” (Letter to OMB, November 20, 1996.)

“The impacts ... on highway funding, as well as on stationary sources, could affect much larger areas, going well beyond those envisioned when the 1990 Amendments were passed. ... The enforcement consequences of these mandates would thus likely be profound. (Letter to OMB, November 20, 1996.)

- **Standards could impact industry and the economy and change accustomed lifestyles:** “Control measures needed to meet the standards could have significant economic impacts on industry, including previously unregulated businesses, and require lifestyle changes by a significant part of the U.S. population.” (Letter to OMB, November 20, 1996.)
- **Costs will be high:** “The costs associated with the standard changes, both in terms of cost of compliance as well as economic impacts, will likely be large.” And: “RIA excludes transportation control measures. These may be the most costly elements of further emissions

reductions.” And: “[I]t is critical that the Administration understand the implications associated with such costs up front.” (Letter to OMB, November 20, 1996.)

OFFICE OF SCIENCE AND TECHNOLOGY POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

- **Not enough is known about PM_{2.5}:** “I feel strongly that EPA should carefully evaluate the range of proffered standards to make certain that they reflect the full range of uncertainty arising from scientific analysis and what can be defended as ‘significant’ impacts.” (Memorandum to Sally Katzen, Administrator, OIRA, OMB, from John H. Gibbons, Assistant to the President for Science and Technology, Office of Science and Technology Policy, November 22, 1996.)
- **Not enough research has been done on PM_{2.5}:** “Toxicological mechanisms for mortality due to particulate exposure are unknown, only a couple of very recent animal studies have reproduced mortality effects using animal models, and no human clinical or field studies have been performed.” (Memorandum to Sally Katzen, Administrator, OIRA, OMB, from John H. Gibbons, Assistant to the President for Science and Technology, Office of Science and Technology Policy, November 21, 1996.)
- **There is not enough scientific evidence linking PM_{2.5} with mortality and morbidity:** “The database for actual levels of PM_{2.5} is also very poor, and only a handful of studies have actually studied PM_{2.5}, *per se*. And current data do not support clear associations of PM effects with either fine particles (PM_{2.5}), inhalable particles (PM₁₀ or PM₁₅), sulfate, so that causality for the observed mortality and morbidity effects cannot be established.” (Memorandum, draft, to Sally Katzen, Administrator, OIRA, OMB, from Rosina Bierbaum, Acting Associate Director for Environment, Office of Science and Technology Policy, November 15, 1996.)

DEPARTMENT OF COMMERCE

- **Much of the PM_{2.5} in the air is created naturally:** “How does the proposed new standard [for PM_{2.5}] relate to the natural levels of particulate matter in the atmosphere? For example, Saharan dust can be detected on the Eastern coast of the U.S. during extended periods. Will the new standard have the flexibility to avoid placing requirements on cities that are influenced by particulate matter from natural sources far from their location?” (“Questions from a Scientific Perspective Regarding the Proposed Particulate Matter and Surface-level Ozone Standards,” Memorandum to Michael Fitzpatrick, Special Assistant, OIRA, OMB, from Jeffrey Hunker, Deputy Assistant to the Secretary, Commerce Department, December 18, 1996).
- **Concerns over economic impact:** “The Commerce Department has an ongoing interest and concern in regulatory actions that may affect the economic opportunities available to American businesses, communities, and workers.” (Memorandum to Chris Wolz, Policy Analyst, OIRA, OMB, from Jeffrey Hunker, Deputy Assistant to the Secretary, Commerce Department, November 1996.)

SMALL BUSINESS ADMINISTRATION

- **Concerns over the ozone standard's economic impact on small business:** "In the draft regulation, EPA [states] that the revision of the ozone NAAQS will not have a 'significant economic impact on a substantial number of small entities.' Considering the large economic impacts suggested by EPA's own analysis that will unquestionably fall on tens of thousands, if not hundreds of thousands of small businesses, this would be a startling proposition to the small business community." (Letter to Carol Browner, EPA Administrator, EPA, from Jere Glover, Chief Counsel for Advocacy, U.S. Small Business Administration, November 18, 1996.)
- **Recommendations for SBREFA review:** "We urge the agency to rethink its position, and convene a small business advocacy review panel as required by the new Small Business Regulatory Enforcement Fairness Act (SBREFA)." And: "SBREFA does apply to this rulemaking." (Letter to EPA, November 18, 1996.)
- **Benefits from new ozone standards do not justify estimated costs:** "[W]e are extremely concerned about the cost implications of this proposal. Perhaps more importantly, this concern is heightened by the large body of evidence suggesting the paucity of health benefits that would result from a revised standard." (Letter to EPA, November 18, 1996.)
- **The EPA's regulations contradict the findings of its scientists:** "Frankly, we are puzzled by this apparent difference of opinion between EPA's own group of health experts and the EPA draft preamble. We have asked EPA staff to redraft the preamble to elaborate on this apparent difference of opinion." (Letter to EPA, November 18, 1996.)

DEPARTMENT OF AGRICULTURE

- **The EPA does not provide enough information on how the new ozone standards will affect farmers:** "[The proposed standards do] not contain detailed information regarding specific effects on agriculture that may be caused by pollution or that may result from pollution controls. ... Farm groups have expressed their concern that the proposed standards may impose significant costs on farmers and agribusiness. ... May we have access to detailed information upon which the regulatory packages are based so that it can address the concerns of constituents?" ("Issues Concerning the PM and Ozone Rules," to Michael Fitzpatrick, Special Assistant, OIRA, OMB, from the Office of the Secretary, U.S. Department of Agriculture, December 18, 1996.)
- **Full attainment of the standards is not achievable:** "[I]n some cases, areas implementing all available control technology are not able to attain the proposed standards." ("Issues Concerning the PM and Ozone Rules," December 18, 1996)
- **Concerns over the ozone standard's economic impact on agriculture:** "We share the concerns of the Small Business Administration regarding the potential impacts of these

proposals on small businesses. Can EPA address these concerns before the final rule is issued?" ("Issues Concerning the PM and Ozone Rules," December 18, 1996)

DEPARTMENT OF THE TREASURY

- **The EPA's new PM regulations contradict the findings of its scientists:** "The Chairman of CASAC stated, '...there does not appear to be any compelling reason to set a restrictive PM_{2.5} NAAQS at this time.' If the largest group of CASAC members supported control at or above the higher end of the staff range ..., why did EPA choose the approximate mid-point?" (Memorandum to Michael Fitzpatrick, Special Assistant, OIRA, OMB, from Ray Squitieri, Economist, Office of Economic Policy, Department of the Treasury, December 19, 1996.)
- **The EPA's estimates of costs and benefits for PM_{2.5} appear to mix apples with oranges:** "If EPA has not estimated the cost of full attainment, is the agency comparing the costs of partial attainment with the benefits of full attainment?" (Memorandum to OMB, December 19, 1996)
- **What is the EPA's definition of "premature" mortality?** "What is the benefit of avoiding a case of bronchitis \$588,000? Are all deferred deaths valued equally, whether the result is one extra week or 30 extra years? Aren't most of those at risk older and less healthy than the average person?" (Memorandum to OMB, December 19, 1996)
- **More questions on the EPA's benefit estimates for PM_{2.5}:** "EPA's benefits estimate appears to assume that reducing particulate concentrations brings down the death rate immediately, by the full amount of the projected change. Isn't it more reasonable to assume that whatever reductions occur will be gradual?" (Memorandum to OMB, December 19, 1996)
- **More questions on the EPA's confidence on the science backing PM_{2.5} standards:** "What confidence does EPA have that it is controlling the particles that are causing damage? What are typical background levels of PM₁₀ and PM_{2.5}?" (Memorandum to OMB, December 19, 1996)
- **The EPA's new ozone standards contradict the findings of its scientists:** "If, as the CASAC reports, there's no observable threshold concentration for 'the onset of biological responses,' how did EPA set one? If none of the proposals is significantly more protective of public health, then why not choose the least restrictive?" (Memorandum to OMB, December 19, 1996)