



## ELECTRIC UTILITIES, INDUSTRIALS

# Utilities, Industrials: Ozone Standards Watch

EPA is set to propose updated National Ambient Air Quality Standards (NAAQS) for ground-level ozone within the year. EPA scientists want to reduce the standard to as low as 60 ppb, near the naturally occurring background level for ozone. Revised standards could send most of the the country into NAAQS “non-attainment” status, subjecting American businesses to onerous EPA pre-construction and operating permit programs.

EPA’s proposed update to the standards could be released as early as this week, with a court deadline to propose the standards by December 1. A final rule could follow as early as October 1, 2015. The proposed rule is currently at the White House undergoing interagency review by the OMB. The new standards would be implemented by states via implementation plans modifying permit programs and other emissions regulations released in years following the final rule.

A tighter ozone NAAQS standard presents real risk to many sectors of the economy: chemicals, oil and gas, electric utilities and virtually every manufacturing process results in emissions of NOx or volatile organic compounds (VOCs), which are precursors to ozone. While EPA can consider potential costs of regulations when considering state implementation plans, the agency is prohibited from doing so when designing NAAQS, making a lower standard more likely.

### Discussion

EPA air regulations are always on investors’ minds, but while many have likely been following developments around the MATS rule or the Existing Source Performance Standards for electric generating units regulating greenhouse gas emissions, there is another set of regulations on the horizon that presents real risk to many U.S. businesses: the EPA’s revised National Ambient Air Quality Standard for ground-level ozone.

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## What's in a NAAQS?

The ground-level ozone standard is just one of several National Ambient Air Quality Standards (NAAQS) under periodic review and revision by the EPA.

The NAAQS set benchmark levels of pollutants within which certain subdivisions of the country - counties, cities, or metropolitan areas - must be in "attainment". States submit State Implementation Plans to EPA following establishment of a NAAQS detailing how they will ensure the standards are met.

If an area of the country is in "non-attainment" of a NAAQS, emissions sources must comply with many different state or EPA administered air regulatory programs to restore the area to attainment status, including operating and pre-construction permit programs requiring the installation of control equipment, and aggressive emissions data monitoring. Similar, but less restrictive, requirements - such as the prevention of significant deterioration permits that were the subject of litigation surrounding greenhouse gas emissions controls earlier this year - exist to maintain area compliance with NAAQS.

### Impact: New Standard Could Go As Low as 60 PPB

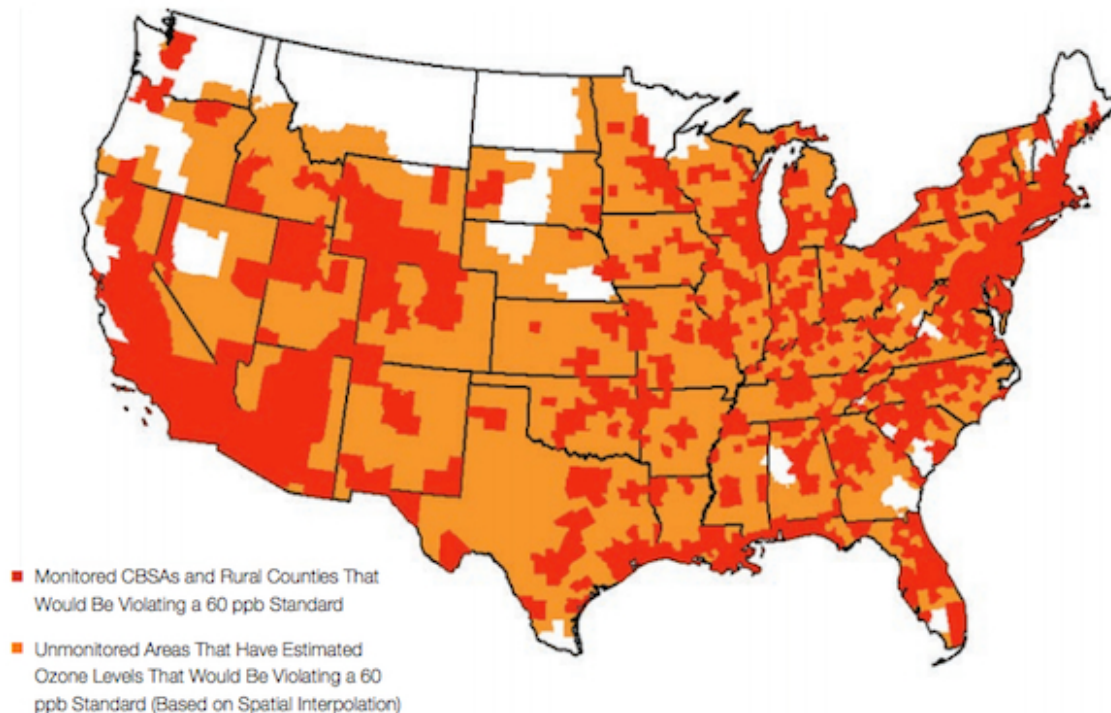
With the current NAAQS review, EPA is set to modify an existing ozone NAAQS setting the standard at 75 parts per billion (ppb). The existing standard was established by the Bush Administration in March 2008, lowering the standard from the 1997 80 ppb standard. The 2008 regulation was upheld by the D.C. Circuit Court of Appeals in June 2013, in a ruling [here](#), and challengers were recently denied Supreme Court review earlier this month.

In the current review, President Obama is reviving earlier efforts by his administration during his first term to lower the ozone standard to a range between 60 and 70 ppb. The 60 to 70 ppb range is supported by EPA's Clean Air Scientific Advisory Committee - a committee of scientists that is required by the Clean Air Act to advise the agency during NAAQS review. However, a 60 to 70 ppb is near the naturally occurring background level for ozone in many areas of the country.

In policy documents released in August, [here](#), agency staff in EPA's Office of Air Quality Planning and Standards said they believed a 60 to 70 ppb standard was appropriate.



Figure 1: Core-Based Statistical Areas (CBSAs) and Rural Counties That Would Violate a 60 ppb Ozone Standard Based on 2011–2013 Data



Source: Based on 2011–2013 data accessed from <http://www.epa.gov/airtrends/> and <http://www.epa.gov/airdata/> on June 2, 2014.

Figure 1: Areas of the country that would violate a 60 ppb Ozone Standard, Source: National Association of Manufacturers, <http://www.nam.org/Issues/Energy-and-Environment/Ozone-Regulations/Ozone-Report-Executive-Summary-20140730/>

A standard as low as 60 ppb could send the vast majority of U.S. geographic subdivisions into “non-attainment” of the NAAQS. A report from NERA Economic Consulting on behalf of the National Association of Manufacturers, [here](#), estimates that a 60 ppb standard could reduce GDP by as much as 1.6% per year relative to modeling scenarios using baseline 75 ppb standard. NERA modeling reveals significant negative impacts across sectors of the economy due to the low ozone standard.

#### **Timing: Proposed Rule by YE2014; Final Rule by 2015; Implementation by States Follows**

Per a California federal court order, [here](#), EPA is set to propose revised ozone standards by December 1, 2014. The order also requires the agency to release the final standards no later than October 1, 2015.

EPA has indicated that it intends to meet the first court deadline and propose the regulation by December; the ozone standard proposal is currently at the White House undergoing interagency review at the Office of Management & Budget

Following release of a final rule in 2015, EPA will call for states to submit their State Implementation Plans (SIPs) detailing state compliance strategies to meet the standards. SIPs will include modifications to state administered Clean Air Act pre-construction and operating permit programs and other regulations, and the impact of the new standards could be felt as close as the latter half of the decade. SIP submission, EPA approval, and ultimate compliance timing



could vary significantly.

### **Costs Could Ultimately be Considered, But Real Risk Remains**

When the Obama Administration initially proposed a review of the ozone NAAQS in the President's first term, the review was withdrawn amidst concerns at the White House that the economic impact may be too large.

However, the President's earlier proposed revisions to the ozone standard were not part of the statutorily required periodic review of the NAAQS - he may not be able or willing to withdraw the NAAQS review given similar considerations. While the agency can consider costs in the implementation plan development and approval process, the agency is prohibited from doing so when setting the NAAQS, making a lower standard more likely.

A tighter ozone NAAQS standard presents real risk to many sectors of the economy: chemicals, oil and gas, electric utilities and virtually every manufacturing process results in emissions of NO<sub>x</sub> or volatile organic compounds (VOCs), which are precursors to ozone. More NO<sub>x</sub> and VOC emissions controls would almost certainly be required with a 60 - 70 ppb standard.

### **Additional Resources**

[Congressional Research Service Report on Ozone NAAQS](#)

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