



EPA

United States of America
Environmental Protection Agency

A FAX FROM:

TO:

Karen Martin

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SUBJECT:

FROM:

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COMMENTS:

*Please give to
Karen*

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

FAX TRANSMITTAL

TO: Steve Johnson, Administrator

ORG: EPA

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FROM: SUSAN E. DUDLEY, Administrator

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DATE:

of PAGES (including cover sheet):

MESSAGE:



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 13, 2008

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

The Honorable Stephen L. Johnson
Administrator
Environmental Protection Agency
Washington, DC 20460

Dear Mr. Johnson:

This letter memorializes the results of the coordinated "regulatory planning and review" process for EPA's final regulation concerning the national ambient air quality standard (NAAQS) for ozone pursuant to Executive Order 12866.

As you know, on March 6, 2008, pursuant to section 6(b) of Executive Order 12866, I sent to you in writing a memorandum outlining significant reservations about the preliminary draft's proposal for a secondary (public welfare-based) standard that would have differed from the primary (public health-based) standard in form, though not in effect. (A copy is attached). On March 7, 2008, EPA's Deputy Administrator sent me a response in writing. (A copy is attached.) I then promptly advised EPA's Deputy Administrator of differences between that response and issues that arose during interagency review, and that OIRA was still not in a position to conclude its review of the rule with the proposed secondary standard unaltered. Further consultations ensued.

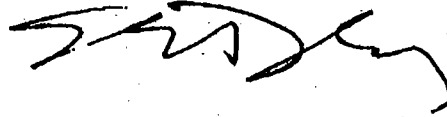
Pursuant to section 7(a) of the Executive Order, EPA then sought further consideration of this disagreement concerning EPA's proposed departure from precedent on the form of the secondary standard. That process has assisted us both in further considering the issues and legal determinations involved, and pursuant to section 7(d) of the Executive Order we have been advised of the result of that process, as you requested, to enable your determination.

There are two options that were proposed by EPA and are supported by the record and the Clean Air Act, both of which provide an increase in the protection to public welfare from ozone. The two options are: 1) revising the secondary standard to a seasonal, cumulative form; and 2) revising the secondary standard to be identical with the new primary standard.

The President has concluded that, consistent with Administration policy, added protection should be afforded to public welfare by strengthening the secondary ozone standard and setting it to be identical to the new primary standard, the approach adopted when ozone standards were last promulgated. This policy thus recognizes the Administrator's judgment that the secondary standard needs to be adjusted to provide increased protection to public welfare and avoids setting a standard lower or higher than is necessary.

I understand that you intend to render your determination today. As usual, my staff is available to work with your staff to meet this deadline.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Dudley", written in a cursive style.

Susan E. Dudley
Administrator