



From Climate Extra

Environmentalists Bolster Years-Old Petition For EPA To Set CO2 NAAQS

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Environmentalists are supplementing their years-old petition for EPA to set a national ambient air quality standard (NAAQS) for carbon dioxide, submitting additional data on the science that has evolved since their original 2009 petition to the agency that the Trump EPA rejected but the Biden administration reinstated.

The Center for Biological Diversity (CBD) and 350.org sent an [April 14 letter](#) to EPA Administrator Michael Regan offering new scientific information in support of their petition to set a CO2 NAAQS.

The groups filed the supplement after the agency [March 4 withdrew](#) the Trump administration's Jan. 19 petition denial, an action that broadened the agency's statutory options for regulating greenhouse gases under the Clean Air Act as officials reconsider their approaches for cutting GHGs from power plants and other sectors. "We are pleased that the [EPA] is 'further consider[ing] the important issues raised' in the 2009 Petition," the groups' letter says, citing the petition's reinstatement by then-acting Administrator Jane Nishada.

"In light of this fact and that the 2009 Petition has now been pending for more than a decade, we write to provide some additional information regarding developments in climate research and policy since 2009, and address some of the concerns raised in the Petition denial," the letter says.

New information includes that the warming potential of certain greenhouse gases, such as methane, "has been revised upwards;" information on "additional and more extreme dangers of climate change to public health and the planet has been published; and limiting warming to 1.5 [degrees Celsius] with little or no overshoot requires a more rapid phase out of [CO2] emissions than would have been necessary had reductions begun sooner."

Also, research into nationwide carbon budgets and climate policy developments since 2009 "provide an even clearer pathway to establishing a national [GHG] pollution cap than was evident in 2009, while case law helps indicate how these emissions reductions can be apportioned among the states," the letter notes.

EPA declined to comment on the new letter.

The groups also renew their arguments that EPA is obligated to regulate CO2 under the NAAQS program, saying that listing CO2 and other GHGs as a criteria pollutant "remains mandatory under the Clean Air Act. It is imperative that the United States now take bold actions to address climate change" and the NAAQS program is the air law's "most far-reaching and important tool for doing so."

Free-market and other critics of climate rules have long opposed regulation of CO2 as a criteria pollutant, though Brittany Bolen, the Trump EPA's policy chief and senior counsel, said recently that proceeding with such an approach is unlikely to move quickly.

NAAQS reviews are rigorous and require multiple steps, especially because the Biden EPA is also expected to revive the role of the Clean Air Scientific Advisory Committee that offers input on the development of such standards, adding another layer of review to the process, which already "takes years," Bolen told *Inside EPA* in a [recent interview](#).

"I think for the time that they're there . . . this is not going to be accomplished in a first term. I believe this is more of a leverage point, exploring next steps."

National Framework

But the environmental groups argue that listing CO2 as a criteria pollutant would provide a national framework for addressing the most pervasive forms of emissions from numerous sources and is "best suited to the regulation of" GHGs, they add in the letter to Regan.

The NAAQS program also activates the "widest possible approach to tackling" GHGs, "and offers states maximum flexibility to choose the measures, across multiple sectors, which will allow each state to achieve its emission reduction requirements."

The groups stress that reductions of other criteria pollutants under sections 108-110 of the air law, such as ozone and particulate matter, "have provided large economic benefits and have been achieved during periods of rapid economic growth."

Finally, the letter endorses simultaneous GHG reduction programs under other sections of the air law -- such as 115 addressing foreign emissions, 111 for stationary sources, and 202, 213 and 231 for mobile sources. They say these rules "have an important role to play and will complement a national pollution standard. But incremental approaches such as the Clean Power Plan [power plant GHG rule under section 111] have not delivered the urgently needed pollution reductions. Seeing a national science-based standard is critical to protecting the health and welfare of the nation."

In an accompanying press release the groups say they reinforced their original petition in response to EPA reopening consideration of it, pointing out that the urgency of the climate crisis has grown exponentially in the last 12 years.

"We have such an abundance of evidence of the dangers [GHG] pollution poses to human health and survival," Maya Golden-Krasner, director of CBD's Climate Law Institute, said. "Every flood, fire and superstorm reminds us how desperately we need bold EPA action, right now."

Natalia Mebane, 350.org's policy director, added, "The Supreme Court decided years ago that the executive branch can regulate carbon as an air pollutant. The EPA has a duty to enforce the laws that protect our air, water and climate. The Biden administration has already taken great steps to reduce our carbon emissions, and we call on them to use their full authority to combat the climate crisis."

Last month, Golden-Krasner told *Inside EPA* that EPA was giving "[serious consideration](#)" to setting a secondary CO2 NAAQS to protect the environment, rather than a primary one to protect human health, in a bid to have the rule survive review by a conservative high court. She said while the group prefers it set both, "there may be some aspects" to a secondary-only approach "that makes sense" because it would offer more flexibility on compliance timelines.

But **not all environmentalists are on board** with the idea of a CO2 NAAQS, with groups such as the Natural Resources Defense Council arguing that the best approach is for EPA to issue a new round of section 111 rules, known as new source performance standards.

Meanwhile, some conservatives including the *Wall Street Journal* editorial page are warning that EPA's plan to tighten the ozone NAAQS could be a "**backdoor**" way to regulate CO2 citing work by acting air chief Joe Goffman while at Harvard University in 2019 with Democratic state attorneys general (AGs) to pitch this option. On Jan. 19, 16 Democratic AGs filed suit over the Trump EPA's decision to retain the ozone NAAQS. -- Dawn Reeves (dreeves@iwpnews.com)

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