



NEW YORK CITY LAW DEPARTMENT
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Press Release

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**THE CITY, SEVERAL STATES AND LOCAL GOVERNMENTS
FILE LAWSUIT AGAINST THE EPA
SEEKING STRONGER SAFEGUARDS AGAINST SMOG**

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New York, May 28, 2008 - New York City joined a petition filed yesterday in the U.S. Court of Appeals for the D.C. Circuit challenging the United States Environmental Protection Agency's ("EPA") final rule issued in March 2008 for primary and secondary emissions standards for ground level ozone, one of the contributors to smog.

The City and other petitioners contend that the EPA's revised National Ambient Air Quality Standards for ozone do not adequately protect the public health and welfare, as required under the federal Clean Air Act. The EPA ignored the unanimous recommendations of its panel of independent science advisors, the Clean Air Scientific Advisory Committee ("CASAC"), that the primary standard, designed to protect human health, be set between 0.060 to 0.070 ppm (parts per million). The EPA had set it at .075 ppm.

In addition, CASAC recommends that the secondary standard, designed to protect trees and vegetation, be based on a different method of measuring the level of ozone. CASAC recommends that this measurement be based on studying levels over a longer span of time. Instead, the EPA bowed to pressure from the White House and set both the primary and secondary standards at 0.075 ppm.

CASAC concluded that the standards adopted by the EPA would not protect the public health and could lead to significant adverse health effects for adults. These adverse impacts include decreased lung function, enhanced respiratory symptoms for asthmatics, and premature mortality. Children with asthma are especially vulnerable to exposure to ground level ozone. Because emissions outside New York City contribute significantly to our city's ozone pollution, a national standard is needed to drive the coordinated action among states in our region that is needed to ensure improvements.

"Joining this lawsuit is an important part of the City's ongoing efforts to protect the health of New Yorkers. Air pollution contributes to asthma and cardiovascular hospitalizations, and to premature mortality. Reducing our ozone levels will help meet the City's PlaNYC goals to create a cleaner and safer environment where all New Yorkers can live healthy lives," said New York City Health Commissioner Thomas R. Frieden.

Rit Aggarwala, Director of the Mayor's Office of Long Term Planning and Sustainability, said, "PlaNYC's efforts to improve NYC air quality will take longer if the EPA does not control upwind, out of state sources by setting standards for ozone emissions that are strong enough to protect the public and the environment,"

Susan Kath, Division Chief of the Environmental Law Division at the New York City Law Department, the

office representing New York City in this lawsuit, said, "The federal Clean Air Act requires EPA to routinely review and establish ground level ozone emission standards that protect the most vulnerable citizens. Instead, in ignoring the unanimous advice of its scientific experts in setting these standards, EPA has promulgated an arbitrary, erroneous alternative,"

New York City joins New York State (lead counsel), Massachusetts, California, Oregon, Maryland, Delaware, Maine, New Jersey, Pennsylvania, New Mexico, Illinois, New Hampshire, Connecticut, Rhode Island, and Washington, D.C. in this suit.

Scott Pasternack, Senior Counsel, and Haley Stein, Assistant Corp Counsel, are handling the case for the New York City Law Dept.

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