



July 12, 2006

**Via Email**

Ms. Lydia Wegman (C504-02)  
U.S. EPA  
Office of Air Quality Planning and Standards, Health  
and Environmental Impacts Division  
Research Triangle Park, NC 27711

Re: Review of the Process for Setting National Ambient Air Quality Standards

Dear Ms. Wegman:

We write in response to the request for comments on the referenced document published in the Federal Register on June 12, 2006 (71 Fed. Reg. 33747). The Battery Council International is a trade association whose members include virtually all of the United States lead battery manufacturers and most of its secondary smelters. Its members thus are likely to be directly affected by the NAAQS and the process for their re-evaluation, and especially by re-evaluation of the lead NAAQS.

BCI applauds the Agency for undertaking this review, which is long overdue. We also find sound many of the recommendations in the March report of the NAAQS Process Review Group. We thus urge the Agency to move forward with the proposed reform process.

A more fundamental way to allow a more efficient use of Agency resources, however, would be to delete lead from the list of criteria pollutants. As the current second draft lead Criteria Document properly recognizes, lead ambient air concentrations in the United States have been dramatically reduced since 1970. Continued inclusion of lead as a criteria pollutant is no longer consistent with Section 108 of The Clean Air Act.

This is not to say that air emissions of lead should be uncontrolled, or that no steps should be taken to address public health concerns arising from lead use. Such actions are appropriate. But many other regulatory vehicles exist for meeting these concerns. EPA has adopted NSPS for both lead acid battery manufacturers and secondary smelters, the primary industry users of lead in the U.S.; has adopted NESHAPS for secondary smelters under Section 112; and is in the process of adopting an area source rule under the urban air toxics program for lead acid battery plants. Programs also regulate other sources of lead emissions (e.g., water, waste treatment, land disposal). In addition, the Center for

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Disease Control maintains a close watch of the implications of new scientific evidence on lead's health effects, so there is no need for EPA to repeat this activity.

As long as EPA is obliged to consider lead a criteria pollutant subject to NAAQS, it is important that the NAAQS regulatory process be improved. BCI finds the following recommendations of the March report especially important:

1. There is no good reason to prepare a criteria document, a staff report, and a regulatory proposal with preamble. These activities can readily be consolidated into a single background document and proposed rule, as the report recommends, especially if the Agency implements a better process for identifying and characterizing new scientific studies as they are published.
2. One option addressed in the report is the possible publication of yet another policy assessment document, such as an ANPR. (Report, p. 28). This seems counterproductive. Not only would development of such a paper require additional Agency resources, BCI sees little value in the routine publication of a policy assessment independent of the preamble for the proposed regulatory decision.
3. All steps taken to improve greater efficiency should also allow for more meaningful opportunities for public input on EPA drafts and other documents. The experience of the current lead NAAQS review, in which inadequate time has been allowed for review of the excruciatingly-detailed, 1000+ page drafts of the criteria document, must be avoided in the future. Private sector resources are just as constrained as those of government. Simplifying the burdens on Agency staff and CASAC by eliminating unnecessary publications (such as the staff report) should allow time for more efficient and comprehensive, and thus more meaningful, public review, even within the context of tight statutory deadlines for action.
4. BCI strongly endorses the suggestion that responses to public comments on draft documents be more clearly documented. Currently, it is often impossible for those outside the government to determine whether their views have been evaluated and rejected for some at least purportedly-rational reason, or whether they have been wholly ignored. Devoting staff resources to confirming how and why the Agency has responded to public comments is vital if the rulemaking process is not to be a sham. The potential delays referenced at page 29 of the Report as a result of improving the Agency's performance in this regard can be avoided by the elimination of other activities, as the report proposes.

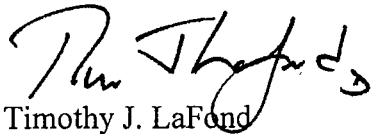
In sum, BCI urges that the Agency proceed to implement an improved NAAQS process, and employ it in the current lead NAAQS proceeding. Doing so would significantly improve a process that to date has been quite unsatisfactory.

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If you would like any further information on our views, please contact our Washington counsel, David B. Weinberg, at [Dweinberg@WRF.com](mailto:Dweinberg@WRF.com) or (202) 719-7102.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. LaFond". The signature is written in a cursive style with a large initial "T" and "L".

Timothy J. LaFond  
Chair, Environmental Committee