

Oral Comments of John Bachmann on the Environmental Protection Agency's (EPA) Proposed Action on National Ambient Air Quality Standards (NAAQS) for Ozone

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Thanks to EPA for the opportunity to comment. I worked for EPA's Air Office for 33 years, much of that as Associate Director for Science/Policy and New Programs. In that capacity, I had extensive experience in the National Ambient Air Quality Standards (NAAQS) review process, as well as research, implementation, and climate issues.

I have two major points:

- EPA leaders have broken the NAAQS process, crippled the Clean Air Scientific Advisory Committee (CASAC) and forced EPA staff who developed the draft Ozone Integrated Science Assessment and the Policy/Risk and Exposure Assessments to work under very difficult time constraints. While I thank the staff for their excellent efforts, I believe that the compromises, especially in the external review, have not provided the Administrator with the level of advice and analyses that would have been possible with more time. This calls the validity of this review into question.
- EPA should conduct the analysis on the effects of ozone on climate recommended by CASAC.

Process Fail. In May 2018, EPA Administrator Pruitt issued an ill-conceived approach to ensure the reviews of the particulate matter (PM) and ozone standards would be completed by the end of 2020. This short-changed the time needed to produce and review multiple documents for two major pollutants. His successor compounded the problems by selecting a largely inexperienced group for the seven-member CASAC, and by announcing in October 2018 that EPA would disband the PM expert panel and would not form an expert panel for ozone. These panels have traditionally provided expertise and experience lacking in any CASAC in all prior NAAQS reviews. The Administrator never provided a valid rationale and refused recommendations from CASAC, as well as members of past PM and ozone panels¹ to remedy the issue.

Reviewing the ozone standards in under 2 years and weakening the external scientific review has done real damage to the legitimacy of the proposed decisions. This is well illustrated in the comments of CASAC member Mark Frampton, MD.

"The EPA time-frame and process are inadequate for CASAC to provide a considered and insightful review of this PA. The review of the ISA and the PA are being done simultaneously, when logically the PA depends on the findings of the ISA. CASAC should be provided the opportunity to review, comment on, and receive responses from EPA on the ISA, before any consideration of

¹ Frey, H.C., A.V. Diez Roux, G. Allen, E.L. Avol, J. Brain, D.P. Chock, D.A. Grantz, J.R. Harkema, D.J. Jacob, D.M. Kenski, S.R. Kleeberger, F.J. Miller, H.S. Neufeld, A.G. Russell, J.S. Ultman, K.C. Weathers, P.B. Woodbury, and R. Wyzga, Advice from the former U.S. EPA Clean Air Scientific Advisory Committee Ozone Review Panel on EPA's Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft – September 2019), and EPA's Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards (External Review Draft – October 2019), Letter to EPA Administrator Andrew Wheeler from members of the former Clean Air Scientific Advisory Committee Ozone Review Panel (2009-2015), December 2, 2019. [https://yosemite.epa.gov/sab/sabproduct.nsf/B2AF0B23ABE6A60E852584C4007312E3/\\$File/EPA+CASAC+O3+Review+ISA+PA+Letter+191202+Final.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/B2AF0B23ABE6A60E852584C4007312E3/$File/EPA+CASAC+O3+Review+ISA+PA+Letter+191202+Final.pdf)

*the PA....By preparing the PA prior to CASAC's review of the ISA, EPA is short-circuiting the process, and in effect severely limiting CASAC's ability to advise EPA on the ozone NAAQS."*²

Dr. Frampton further notes:

*"The failure of EPA to appoint an expert review panel to assist CASAC in its reviews of the ISA and PA, as has been done for previous CASAC reviews, has adversely affected the ability of the Committee to provide the best advice to the Administrator. Previously the expert panel has interacted directly with CASAC during the public meetings in an iterative fashion to help inform CASAC's conclusions, and that is absent with the new structure. For this ozone review, additional expertise is needed in epidemiology, toxicology, and human clinical studies, and that expertise should include active investigators in the field."*³

This lack of expertise on CASAC weakens its credibility. Unlike for PM, EPA notes in this case most agreed with staff that the current standards were both adequate and necessary. Yet, the proposal's summary of the alternative view is misleading. It was not that the current primary standard "may not be protective." In fact, Dr. Frampton, the only active member who worked on human clinical studies, was unequivocal, stating: "*The current ozone NAAQS level of 70 ppb does not provide an adequate margin of safety for children with asthma.*" He went on to criticize the lack of attention to airway inflammation, quoting the current PA analysis showing 11% of asthmatic children could see levels of concern. He recommended more attention to that issue in the PA, but there was not time for more work. EPA's final rule needs to respond to the actual basis of Frampton's expert conclusion, which was not dependent on the staff assessments in the previous review.

Need to take ozone effects on climate seriously: As ozone is a significant greenhouse gas that has been increasing in the Northern Hemisphere for decades, ozone NAAQS reviews must take this issue seriously.⁴ While there was not time to respond given the schedule, EPA should accept CASAC's recommendation⁵ to more thoroughly address effects of ozone on climate change by providing quantitative estimates and uncertainty bands for effects of ozone on global warming and the consequence for economic and welfare effects on the United States.

² Mark Frampton, Preliminary Comments from Members of the CASAC on EPA's *Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards (External Review Draft – October 2019)* Available at: [https://yosemite.epa.gov/sab/sabproduct.nsf/CB1BFD9F4D05C811852584BF0074C954/\\$File/Preliminary+CASAC+Ozone+PA+Comments-112719.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/CB1BFD9F4D05C811852584BF0074C954/$File/Preliminary+CASAC+Ozone+PA+Comments-112719.pdf)

³ Cox, L.A. (2020a). Letter from Louis Anthony Cox, Jr., Chair, Clean Air Scientific Advisory Committee, to Administrator Andrew R. Wheeler. Re: CASAC Review of the EPA's *Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards (External Review Draft—October 2019)*. February 19, 2020. EPA-CASAC-20-003. Office of the Administrator, Science Advisory Board Washington, DC Available at: [https://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/4713D217BC07103485258515006359BA/\\$File/EP-A-CASAC-20-003.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/4713D217BC07103485258515006359BA/$File/EP-A-CASAC-20-003.pdf).

⁴ Comments of John Bachmann on the draft EPA Policy Assessment for Ozone. 9 December 2019 Available at: [https://yosemite.epa.gov/sab/sabproduct.nsf/069F7DE6E6AB9573852584CB005F0D6B/\\$File/Presentation+and+comments+of+John+Bachmann+draft+ozone+PA+5+December+2019.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/069F7DE6E6AB9573852584CB005F0D6B/$File/Presentation+and+comments+of+John+Bachmann+draft+ozone+PA+5+December+2019.pdf)

⁵ Cox, L.A. Ibid. Page 2.