

TESTIMONY OF ROY N. GAMSE
AT THE US EPA PUBLIC HEARING ON THE PROPOSED REVIEW OF THE
OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS
AUGUST 31, 2020

I am Roy Gamse. I worked for US EPA from 1972 to 1982. I served as Deputy Assistant Administrator for Planning and Evaluation, Acting Assistant Administrator for Planning and Management, and Deputy Associate Administrator for Policy and Resources Management. I was responsible for overseeing the regulation development process at EPA in the Carter and Reagan Administrations. Consequently, I've been disturbed by the process used recently for review of ambient air quality standards under the Clean Air Act (CAA).

EPA has had an admirable process for utilizing science expertise in developing environmental standards. For over thirty years, EPA consistently augmented the chartered Clean Air Scientific Advisory Committee (CASAC) with expert review panels to evaluate research on each National Ambient Air Quality Standard (NAAQS), since the smaller CASAC doesn't have the requisite expertise. The review process has been robust, with serious consideration of EPA staff submissions, and ample time and opportunity for public review and comment. That process provided a strong foundation for many years.

But the ozone NAAQS review deviated substantially from the standard process. After announcing that an expert panel would be appointed, the Administrator never did so. Instead the review was done by CASAC members without the needed expertise. No epidemiologists, and no diversity of expertise in toxicology and controlled human studies. To accelerate the process, EPA had the Integrated Science Assessment (ISA) and the Policy Assessment (PA) done simultaneously, whereas the development of the PA should depend on the results of CASAC's review of the ISA. Preparing them together eliminated CASAC's ability to give EPA the best advice on the ozone standard.

Limited as they were, CASAC recommended making no change in the current ozone air quality standards. Should the public believe that EPA is protecting their health when the rigorous bipartisan process used for over thirty years was abandoned? For more detail, **please see NC State Professor Christopher Frey's December 5, 2019, comments to CASAC, as well as CASAC member Dr. Mark Frampton's critical comments on the flaws in this accelerated process. They should both be included in the record.**

Why is the Administration racing through the process rather than follow the Agency's standard procedures? A good guess is that they want to quickly finalize the ozone NAAQS rule, as well as other rules, so that the decisions cannot be made by the next Administration or overruled by the next Congress. That's the only reason I can imagine for EPA's shortcuts and hurried decisions. Doing it in a hurry to keep the next Administration or the next Congress from doing it right. In this context, *haste truly makes waste*.

What should EPA do? **Stop the rush to judgment. Slow down. Form a panel of real experts on ozone health effects, provide them the required ISA and PA documents in the right**

sequence, and follow their advice, just the same as the last Administration did, and the one before that, and the one before that. Do that for every air quality regulation in the future, as in the past.

One more observation: It's odd to watch the "beat the clock" rush that's going on here, in view of other unprecedented actions that EPA is taking.

EPA is now developing a rule ironically called the "science transparency rule," which purports to improve EPA decision-making by requiring that regulations can only be based on research studies for which the public can access the data and models for their own review. It's called the "censoring science rule" by most public interest groups because they know, as do EPA's career employees, that due to personal privacy promises to subjects of health effects research studies, as well as Canadian and EU restrictions, many of the best studies used as the basis of health regulations could not be used under the so-called "science transparency" rule. EPA appears to be adopting a rule that would tie the hands of future Administrations and keep them from using the best science as the basis of regulations. So much for improving regulation.

Similarly, EPA is racing to finalize a regulation specifying what cost-benefit analysis must be done for every significant CAA regulation. That's unnecessary, since OMB has had guidance for economic analysis for 17 years, and EPA has a 430-page set of guidelines on how to do such analyses.

Why would EPA write a self-regulation on cost-benefit analysis for CAA rules? I wonder if EPA has fully complied with its new CAA cost-benefit analysis proposal for this ozone rule that it's racing to finalize?

To show how crazy this is, those opposed to a new EPA primary air quality standard could sue to delay or block the rule because EPA hadn't, in their opinion, met the requirements of its new cost-benefit rule—even though the CAA does not allow costs to be considered in setting air quality standards! This proposal seems to be simply a means to slow down and block future Administrations from issuing CAA rules.

So the big picture here is that with one hand EPA is cutting corners and racing to finalize regulations to get them promulgated in time to avoid possible review and repair by the next Administration or Congress. With the other hand, EPA appears to be trying to hamper future Administrations with self-regulations on cost-benefit analysis and on what research can be used, likely resulting in unnecessary delays and litigation. Racing to beat the clock itself while acting to slow down or block future Administrations.

I implore EPA to stop racing to beat the clock and throwing landmines to block future regulations. **Go back and develop the ozone (and other) air quality standards the right way, as they have been done by previous Administrations for decades.** Thank you.