

Oral Comments of Bernard D. Goldstein, MD
Proposed Action on National Ambient Air Quality Standards (NAAQS) for Ozone

Docket ID No. EPA-HQ-OAR-2018-0279

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Thank you for this opportunity. I am a physician and the Emeritus Dean of the University of Pittsburgh Graduate School of Public Health. I chaired the Clean Air Scientific Advisory Committee (CASAC) under Administrator Gorsuch, and then served as President Reagan's appointee as EPA Asst. Administrator for Research and Development under Administrators Ruckelshaus and Thomas. My research on ozone began in 1966 before there even was an EPA. I am an elected member of the National Academy of Medicine and the American Society for Clinical Investigation.

I will limit my remarks to the appalling failure of EPA to consider the devastating attacks by COVID-19 as part of the margin of safety required for the ozone standard.

In teaching I often use the Clean Air Act National Ambient Air Quality Standards (NAAQS) process as an exemplar of a law that shouts out the message of protecting public health. But that is not the message that this EPA leadership wants to hear.

EPA has severely truncated and distorted its standard scientific consensus approaches to setting a NAAQS standard. To do so, it has used the specious reason that there is a need to get the NAAQS standards back on a 5-year schedule. But half of the other NAAQS pollutants that are similarly regulated are even longer out of date – with no EPA activity. It is abundantly clear that the real reason is to push the ozone and particulate standards out the door with Mr. Wheeler's imprint before any potential change in administration.

Unfortunately for the world, and for Mr. Wheeler's designs, COVID-19 has given him a hurdle that he can only overcome by willfully ignoring its existence. I say this because to achieve its public health goals, the Clean Air Act requires that the Administrator include an adequate margin of safety.

As we all know, COVID-19 savagely attacks the lungs and the heart. So does ozone. The effects of COVID-19 are magnified in the elderly and those with pre-existing heart and lung disease. The same for ozone. It does not require a medical degree to recognize that COVID-19 is highly likely to be more damaging to those whose heart and lungs are being attacked or have been damaged by ozone, and vice versa.

But Mr. Wheeler has discounted this possibility by saying to the press that those studies which have already reported such a relationship are inconclusive because of uncertainties related to death certificates. Yes, such uncertainties exist. But scientific uncertainty is not a legitimate excuse to ignore COVID-19 when considering the required adequate margin of safety.

In fact, the stated rationale for the margin of safety is (and I am quoting directly from EPA's Federal Registry Notice) to "address uncertainties associated with inconclusive scientific and technical information" and "to provide a reasonable degree of protection against hazards that research has not

yet identified.” In case that wasn’t clear enough, the Administrator is further directed to set the margin of safety (quote) “even if the risk is not precisely identified as to nature or degree.” Also required is to consider the size of the population at risk to ozone, which because of COVID-19 is very likely to be growing rapidly, and the “nature and severity of the effect” – clearly applicable.

But the only mention of COVID-19 in EPA’s 88-page proposed standard is as the reason for closing the EPA docket library. Yet EPA is clearly aware of COVID-19 – having used it as an excuse to scale back oversight of polluting industries.

Obviously, we cannot yet be precise about how many more Americans will die or be harmed because of the interaction between this air pollutant and this virus. But, let me repeat, precision is not required for including COVID-19 in an “adequate margin of safety.”

It is shameful to let political considerations get in the way of public health, to refuse to even consider this very likely significant interaction affecting literally millions of Americans. During the next five years – before ozone would be reconsidered – we have no certainty that the dark shadow of COVID-19 will disappear.

Mr. Wheeler, you must fully consider COVID-19 in relation to both the ozone and particulate standards. My suggestion is to convene a panel to report through CASAC so as to provide you with the background information you need to appropriately add an adequate margin of safety to your proposed ozone and particulate standards.

However you do it, you must act. Don’t just stand there fiddling. When the history of this pandemic is written, don’t have your legacy be cited as a prime example of ignoring public health to play politics.

Thank you.