

Oral Public Comment on the

CASAC Review of EPA's draft Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards (External Review Draft – October 2019)

Review of the Draft Policy Assessment for Ozone Must Be Properly Conditioned and Unbiased, Consistent with the Decision Context Set Forth by Congress

COMMENT BY:

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SUBMITTED TO

**Clean Air Scientific Advisory Committee
U.S. Environmental Protection Agency
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This is a transcript of the oral public comment that I delivered to the EPA Clean Air Scientific Advisory Committee at its December 5, 2019 meeting regarding the draft Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards (External Review Draft – October 2019). Oral public comments were limited to 5 minutes.

I am a past chair of CASAC and chaired the CASAC Ozone Review Panel from 2012 to 2014. Yesterday, I provided comments on behalf of myself and 17 other members of the former ozone review panel. More detail is in our December 2 letter submitted as a public comment.¹ Today, I want to highlight a few of those points and emphasize additional points that represent my individual views.

On July 27, 2018, EPA issued a Federal Register notice on “Request for Nominations of Experts for the Clean Air Scientific Advisory Committee (CASAC) Ozone Review Panel.” In a press release on October 10, 2018, EPA stated that a panel would not be formed but gave no sensible rationale for this specious, arbitrary, and capricious decision that undermines the process.

Although a smaller “pool” of consultants was recently appointed to support the CASAC, the pool is not focused on ozone, in that there is not adequate breadth, depth, and diversity of scientific expertise and experience needed for the ozone review, interacts with the CASAC only in writing, and is not allowed to deliberate with the CASAC; therefore, the pool does not adequately or appropriately substitute for an Ozone Review Panel.

EPA should continue to follow the successful practice, proven for four decades, of augmenting CASAC with the expertise it needs via qualified review panels that deliberate, interactively, with members of the chartered CASAC. An Ozone Review Panel should be appointed to provide CASAC with the expertise it needs.

Today, CASAC is reviewing a draft policy assessment before the advice of CASAC and the public have been incorporated into a revised and final Integrated Science Assessment. This places ‘the cart before the horse’ and commingles policy considerations before science issues have been resolved. This is inappropriate. Policy advice must be based on scientific criteria, which are established in the ISA.

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+CA+SAC+O3+Review+ISA+PA+Letter+191202+Final.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf//B2AF0B23ABE6A60E852584C4007312E3/$File/EPA+CA+SAC+O3+Review+ISA+PA+Letter+191202+Final.pdf)

The draft Policy Assessment subsumes health and welfare risk and exposure assessments that in the past have been, and that now should be, reviewed as separate documents prior to review of the draft PA.

CASAC should ask the EPA Office of General Counsel for advice regarding the decision context of the NAAQS review before it develops policy advice on the Ozone standards. Specifically, CASAC should ask regarding the need to consider at-risk subpopulations in arriving at its advice, and regarding the role of scientific judgment in arriving at reasoned advice that is protective of public health. This is particularly relevant to the primary ozone standards, for which controlled human studies are typically the key foundation of the evidence-based approach. Such studies cannot be done on the most sensitive or at-risk subpopulations for ethical reasons, e.g., severely asthmatic subjects, and thus there is absence of direct evidence for many at-risk groups of policy-relevance. This does not mean that CASAC may ignore such subpopulations.

Given the important role of expert judgment in this review, it is critical that CASAC have the breadth, depth, and diversity of expertise and experience needed to condition such judgment in an unbiased manner. This cannot happen given the current size and composition of this group, and is why an ozone review panel is needed.

Statements by the chair that he and the administrator share a view of 'sound science' are ideological statements aimed at raising the burden of scientific evidence above that required by statute, or ignoring evidence altogether. Congress, not CASAC, and not the Administrator, has defined the decision context for NAAQS review as set forth in the Clean Air Act.

Changes by the EPA Administrator to the NAAQS review process since the last ozone review ignore statutory requirements for a thorough and accurate review of scientific criteria. **Statutory deadlines are not an excuse for deficiencies in the review process.** The NAAQS review for ozone should be suspended until these deficiencies are corrected.

Please see the letter from the former ozone review panel and my individual comments for more details.