

ORAL COMMENTS

To the Clean Air Scientific Advisory Committee Ozone Panel on the Document: "Policy Assessment for the Review of the Ozone National Ambient Air Quality Standards: Second External Review Draft (January 2014)"

Roger O. McClellan

Advisor, Inhalation Toxicology and Human Health Risk Analysis

13701 Quaking Aspen PI NE

Albuquerque, NM 87111

E-mail: roger.o.mcclellan@att.net

Telephone: 505-296-7083

Fax: 505-296-9573

March 26, 2014

ORAL TESTIMONY

Good Afternoon, Distinguished Members of the Subcommittee.

Thank you for the invitation to present my views on the role of science in informing policy judgments on the setting of the National Ambient Air Quality Standards.

I ask that my written testimony be entered in the record as though read in its entirety. Let me summarize.

For more than 5 decades I have been contributing to the development of the science needed to address important Societal issues concerned with Air Quality.

I am proud to have served on many EPA Scientific Advisory Committees under Administrations of both parties. I have served on many Clean Air Scientific Advisory Committee Panels and Chaired CASAC from 1988 to 1992.

I served on the Panels that advised on the 1997 Ozone Standard and the 2006 Particulate Matter Standard. I did not serve on the Ozone Panel that advised on the 2008 Ozone Standard, however, I did offer comments to the Administrator and CASAC.

In March 2008, then EPA Administrator Johnson revised the Ozone Standard using the policy judgment authority delegated exclusively to the EPA Administrator under the Clean Air Act. He retained:

- (a) Ozone as the indicator
- (b) the averaging time of 8 hours
- (c) the statistical form – the standard is attained when the 4th highest 8-hour average is less than the numerical level of the Standard
- (d) and he reduced the concentration from 84 ppb to 75 ppb.

In announcing his decision, Administrator Johnson noted that he considered the CASAC advice to set the standard in the range of 70 to 60 ppb as a blend of science and the committee's policy judgments preference. That viewpoint was affirmed by CASAC Chair Jonathan Samet in January 2011 when he advised then Administrator Jackson that a decision on an "adequate margin of safety" to protect public health was inherently a blend of science and policy judgment.

In September 2012, I offered comments on the first and incomplete draft of the Policy Assessment Document.

My core comment was for the EPA and CASAC to carefully heed the thoughtful advice that Supreme Court Justice Stephen Breyer offered in *Whitman vs American Trucking Association* and use a comparative health view in either reaffirming or revising the Ozone Standard set in 2008.

I am disappointed that the EPA continues to cloak the Policy Assessment in the earlier CASAC inappropriate advice to set a primary standard below 70 ppb as though that “bright line” was dictated by the science.

It is apparent that the EPA has ignored the “common sense” approach advocated by Justice Breyer that I endorsed in September 2012.

Thus, the present draft assessment is incomplete. The document does not contain essential information on morbidity and mortality and the multiple factors other than ambient ozone that influences key health endpoints. In short, using this incomplete policy assessment the Administrator will not have a contextual basis for making policy judgments on how low is low enough for the Standard, so it is neither more nor less stringent than necessary to protect public health. The Clean Air Act does not require the Administrator to set a primary standard at a zero risk level.

In the absence of contextual comparative health information, the Administrator is likely to make policy judgments that are “arbitrary and capricious.” I urge that the Agency revise the Policy Assessment so it contains information essential to making a comparative health-based decision on the level and form of the Standard.

I will be pleased to address any questions you may have.