



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

May 23, 2014

The Honorable John Cornyn
517 Hart Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Jeff Sessions
326 Russell Senate Office Building
United States Senate
Washington, DC 20510

The Honorable James M. Inhofe
205 Russell Senate Office Building
United States Senate
Washington, DC 20510

The Honorable David Vitter
516 Hart Senate Office Building
United States Senate
Washington, DC 20510

The Honorable Tim Scott
167 Russell Senate Office Building
United States Senate
Washington, DC 20510

Dear Senators:

This letter is in response to your letter of May 14, 2014 to Mr. Michael Vince, current President of the Association of Air Pollution Control Agencies (AAPCA), in which you requested responses from the AAPCA member states on the Environmental Protection Agency's (EPA) forthcoming rulemaking on the ozone national ambient air quality standards (NAAQS). As you highlight in your letter, EPA is considering a range between 60 and 70 parts per billion (ppb).

North Carolina is attaining the current ozone standard in all but the Charlotte metropolitan area. Additional air quality management strategies and emission restrictions are being implemented as we work to bring that area into attainment. North Carolina is committed to balancing a healthy environment and a strong economy and making sound environmental decisions based on the best scientific information available.

As much of North Carolina may become designated as nonattainment under the new ozone standards, I would like to offer the following answers to your questions.

1. Is the CASAC process open and transparent? Does the process enable CASAC to sufficiently consider all viewpoints on the science of ozone and its impacts on public

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health and welfare? Are there specific changes you would recommend to make it more open to the public and more conducive to scientific inquiry and debate?

Answer: Given the current Clean Air Act (CAA) five-year deadline to review the NAAQS, the Clean Air Scientific Advisory Committee (CASAC) may believe that it has provided as open and transparent process as practicable. Some serious questions regarding its legal duty were raised recently, leading CASAC to ask EPA for legal advice. More about this question is discussed below.

2. Has CASAC and EPA adequately considered the practical problems involved in lowering ambient concentrations of ozone in some areas beyond regional background levels?

Answer: It is not clear from the documentation to date that especially CASAC has considered the very real and practical problems associated with setting a standard beyond regional background levels. EPA's duty to define a NAAQS is more limited and excludes information on costs.

3. Are you confident, based on the record thus far, that CASAC and EPA will arrive at conclusions that accurately reflect the current state of all scientific research on the effects of ozone? What actions could CASAC and EPA take to improve confidence that they are basing their decisions on appropriate scientific research?

Answer: North Carolina does not have the resources to examine the underlying science on which EPA makes a NAAQS determination. The question of whether the Clean Air Act is being read to force states into reducing ozone concentrations to levels below background is a matter for Congress to consider.

4. In your view, is CASAC required by the Clean Air Act to report on economic impacts when it advises the Administrator on *implementing*-as opposed to *setting*-a new standard? As the CAA reads, CASAC "*shall* also...advise the Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such national ambient air quality standards." Do you agree that having CASAC provide such advice to the Administrator in this regard would assist you and your states in developing implementation plans to meet a new standard?

Answer: Yes, and yes. Section 109(d)(2)(C) indicates that this advice is considered equally with the other requirements of CASAC. Troubling in this regard were recent comments made by the Chairman of the CASAC indicating a misunderstanding of the Clean Air Act. I believe that such information is essential to a sound decision on any new NAAQS.

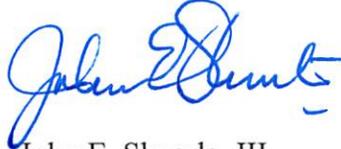
5. Please describe some of the practical and economic difficulties your states could face in implementing new measures to meet a more stringent ozone standard.

Answer: As mentioned earlier, North Carolina has undertaken a number of measures to reduce ozone pollution in our state over the last twenty-plus years. The difficulty now is identifying

additional cost-effective control measures to further reduce ozone. Currently, cars, trucks and off-road equipment account for the majority of the ozone forming emissions in the state. Of course, if the proposed ozone NAAQS is truly approaching the natural background value there may be little that can be done regardless of costs.

Thank you for the opportunity to provide our perspective on this important issue. If you have any questions, please call me at (919) 707-8622.

Sincerely,



John E. Skvarla, III