

**Congress of the United States**  
**Washington, DC 20515**

June 14, 2018

The Honorable E. Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Pruitt:

We are deeply concerned with your May 9<sup>th</sup> memorandum regarding future National Ambient Air Quality Standards (NAAQS) reviews and standard setting.

Section 109(b)(1) of the Clean Air Act directs EPA to establish “ambient air quality standards the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health.” Health is the sole criterion for setting the primary standard. Yet your memo invites that criterion to include economic costs.

Your memo specifically asks the Clean Air Scientific Advisory Committee (CASAC) to consider “adverse social, economic, or energy effects related to NAAQS” during the standard-setting process. Currently, cost considerations inform implementation of the health standards, but not their establishment. The Supreme Court unanimously confirmed this point in *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001), ruling that EPA may not consider implementation costs in setting NAAQS.

The health-based NAAQS have driven lifesaving air pollution cleanup for decades. According to EPA’s own analysis, from 1970 to 2015, aggregate national emissions of the six criteria pollutants dropped an average of 70 percent – even as GDP grew by 246 percent. The agency also found that steps taken under the Clean Air Act, including implementing and enforcing the NAAQS, will prevent 230,000 premature deaths in the year 2020 alone. The work of the Clean Air Act and the NAAQS is far from finished, as more than four in ten Americans still live in areas where levels of ozone or particle pollution make the air unhealthy to breathe.

Allowing the consideration of factors other than health in setting future NAAQS would not only result in inadequate standards that would cause undue harm to the health of millions of Americans, it would also set a dangerous precedent for setting EPA standards. Your memo calls for the expedited review of two pollutants, particulate matter and ozone, which have the potential to aggravate asthma, increase the severity of chronic lung diseases, damage the lungs, cause cardiovascular harm, and even cause death. Emerging research shows links to additional health harms. Those at increased risk include children, seniors, pregnant women, people with chronic lung and heart disease, people who work or exercise outdoors, people of color, and lower-income communities. Weakening these public health and clean air standards to help industry will not

eliminate costs, it will merely shift them to communities, workers, and children, and increase the cost of medical care for those affected.

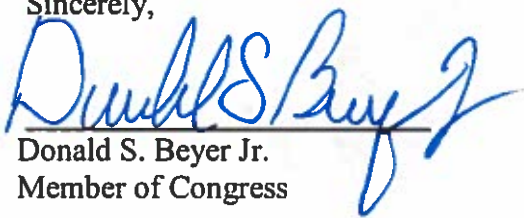
Using the CASAC as the vehicle to make this change is also very concerning given your decision to bar scientists that receive agency funding from acting on advisory boards. This action diminishes the input from the world's best scientists and we fear it will advantage the economic arguments of industry to the detriment of public health. It is clear from the Clean Air Act's text, "allowing an adequate margin of safety," that the intent of Congress is to err on the side of caution to protect human and environmental health. Any leniency to ozone and particulate matter NAAQS as a favor to industry resulting from these reviews will only endanger health and the intent of the Act.

There is a highly problematic, internal contradiction at the heart of your memorandum and your charge to CASAC. In describing the controlling legal precedent, your memo claims that "adverse public health... effects" from attaining a standard are "relevant to the standard-setting process." The memo then uses ellipses to omit that the other impacts related to implementation of the standard, may be considered only after that standard has been set: namely economic impacts, energy effects, etc. that may result from various attainment strategies. Despite this, your memo's 'charge questions' to CASAC asks them to "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 NAAQS" *during the standard-setting process*. This charge question to CASAC contradicts the memo's recognition of the restrictions in the controlling Supreme Court decision. The memo notes that your charge may "elicit information which is not relevant to the standard-setting process, but provides important policy context for the public, co-regulators, and EPA." CASAC must only consider adverse public health effects--from the air pollutant itself--that are relevant to the standard-setting process, during that process. CASAC should not consider alleged health effects related to attainment strategies, and CASAC certainly must not consider economic or energy effects allegedly resulting from those implementation strategies, during any health standard-setting process.

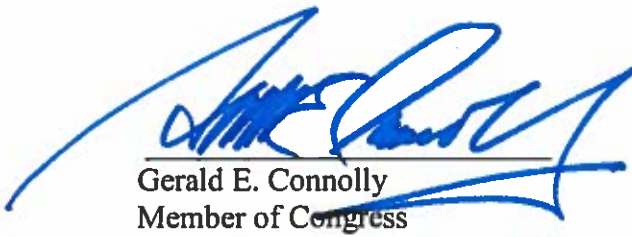
Your memo's stratagem—formally directing CASAC to consider non-health factors during the standard-setting process, before final standards are adopted—is highly objectionable. We, therefore, urge you to withdraw the improper charge to CASAC at once, and to make clear that CASAC—and EPA—will remain focused exclusively on the adverse public health effects that the Clean Air Act and a unanimous Supreme Court confirm are the only relevant statutory considerations during the health standard-setting processes.

The Clean Air Act has been an overwhelming success for the health of Americans. We urge you not to backslide on that legacy.

Sincerely,

  
Donald S. Beyer Jr.  
Member of Congress

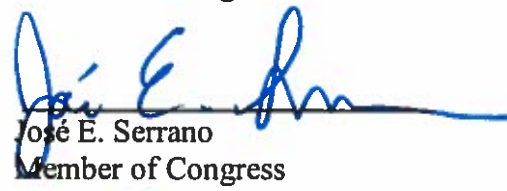
  
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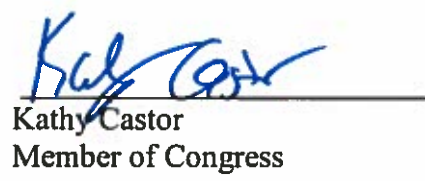
  
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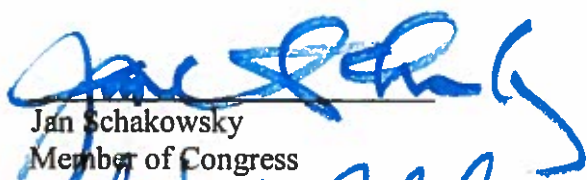
  
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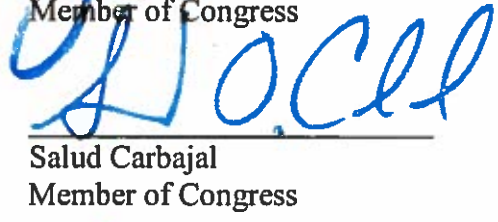
  
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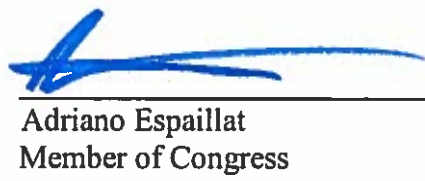
  
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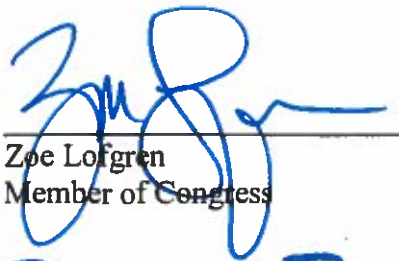
  
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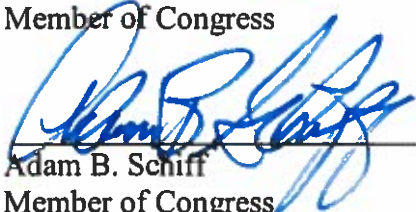
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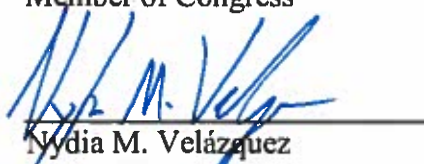
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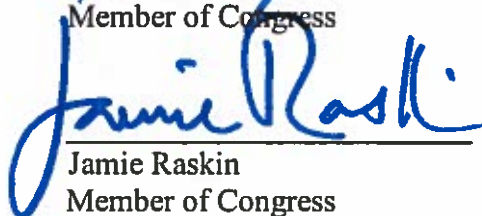
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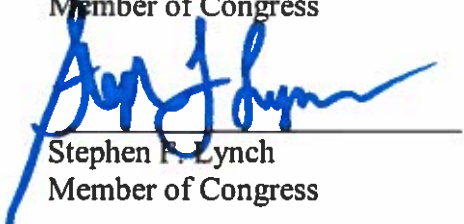
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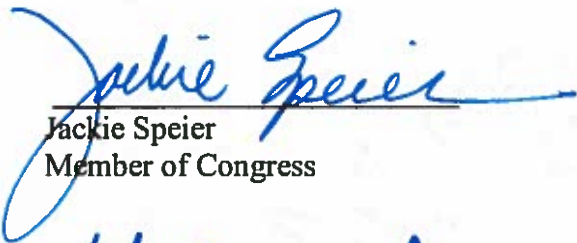
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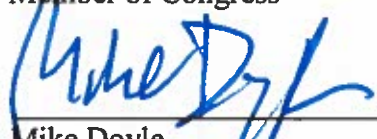
  
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