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Obama ozone decision a giant step backward

By THOMAS O. MCGARITY
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Opinion

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Last Friday, President Obama ordered [Lisa Jackson](#), administrator of the Environmental Protection Agency, to withdraw the EPA's new ambient air quality standard for photochemical oxidants (ozone). The order flies in the face of the available science on the human health effects of ozone and means that the people who live in the most urban areas of Texas will remain exposed to levels of ozone in the air that pose a significant risk of death and heart disease. Persons suffering from asthma will be at especially high risk.

Under the [Clean Air Act](#), the EPA is required to establish ambient air quality standards at a level that protects human health with an adequate margin of safety. Once a standard is established, the states are supposed to require sources of ozone-producing pollutants, such as power plants and refineries, to implement controls that are sufficient to ensure that the standard will be attained in the future.

The act also requires the EPA to re-examine the science every five years and determine whether the standard needs to be revised. In 1990 Congress created a scientific advisory board, called the Clean Air Act Scientific Advisory Committee ([CASAC](#)), to assist the EPA in this exercise.

Since the EPA first began writing standards for ozone in 1970, they have become increasingly stringent as more scientific information has demonstrated that photochemical oxidants have adverse effects on human beings at lower and lower concentrations.

The currently applicable standard of 84 parts per billion (ppb) was promulgated almost 15 years ago in 1997. Despite the five-year-review requirement, the [George W. Bush](#) administration put off revising the standard in 2008, and when it did, it proposed a standard of 75 ppb, which was less stringent than the 60-70 ppb range that the CASAC had recommended. In an extraordinary act of resistance, the CASAC told the EPA administrator that the standard was not supported by the scientific evidence. Not surprisingly, a number of environmental organizations challenged the Bush administration standard in court.

Soon after President Obama was inaugurated, Administrator Jackson struck a deal with those environmental organizations under which the EPA promised to withdraw the Bush standard and promulgate a more stringent one by August 2010. The agreement effectively left the outdated 1997 standard in place, because the EPA told the states not to worry about implementing the withdrawn standard.

The EPA missed the August 2010 deadline. Out of an abundance of caution, Jackson asked the CASAC to analyze the scientific information one more time. The CASAC did so and once again recommended a standard in the 60-70 ppb range. In January of this year, Administrator Jackson said that the EPA would propose a standard in that range.

The agency then completed its proposal and sent it to the [White House Office of Management](#)

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[and Budget](#), where it languished until last Friday, when the president killed it outright.

The upshot of all of this is that the old 1997 standard remains in place. Urban Americans are in worse shape than they would have been had the inadequate Bush administration standards gone into effect.

To say that the environmental organizations that agreed to the postponement have been betrayed would be an understatement. While the Obama administration has dilly-dallied over what should have been a very easy standard-setting exercise, exposure to ground-level ozone has caused, according to the EPA's own calculations, up to 2,200 heart attacks and killed up to 4,300 people per year. The human cost of leaving the 1997 standard in place is that the death toll will continue for at least a few more years.

The administration says that it ordered the EPA to pull back the standard because it would have had an adverse effect on jobs. But the reality is that the standard would create jobs as companies go to greater lengths to reduce pollutants and spend more resources developing alternative energy supplies. Moreover, the EPA estimated that increasing the stringency of the standard would produce up to \$37 billion in health benefits annually.

As the 2012 presidential campaign gets under way, President Obama's political advisers apparently believe that it is necessary for him to cozy up to the energy industry. But to those of us who saw the 2008 election as a sign of hope for a cleaner environment after eight years of scientific denial, this remarkable act of political cowardice sounds a lot like "No, we can't."

McGarity teaches environmental law at the University of Texas School of Law and is a member of the board of the [Center for Progressive Reform](#).

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