



March 22, 2010

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District of Columbia  
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Lisa P. Jackson, Administrator  
U.S. Environmental Protection Agency  
Air and Radiation Docket  
Mail Code 6102T  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
Attention: Docket No. EPA-HQ-OAR-2005-0172

Re: Proposed Rule – National Ambient Air Quality Standards for Ozone

Dear Administrator Jackson:

The Ozone Transport Commission (OTC) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA's) January 19, 2010 proposed rule to revise the National Ambient Air Quality Standard (NAAQS) for ozone. The OTC was created by Congress under the Clean Air Act Amendments of 1990 to coordinate ground-level ozone pollution control planning in the Northeast and Mid-Atlantic region of the U.S. As a result of its reconsideration of the 2008 ozone NAAQS, EPA is proposing to revise the primary and secondary standards that comport with the recommendations of the Clean Air Scientific Advisory Committee (CASAC) and EPA's own professional staff. OTC reaffirms its support, per the statement adopted at the June 6, 2007 meeting, for the work of the CASAC, and for a primary ozone standard in the range of 0.060 to 0.070 parts per million (ppm), in accordance with the latest scientific studies, to protect public health with an adequate margin of safety.

OTC further supports a secondary ozone standard within CASAC-recommended range of 7-15 ppm-hours and in the concentration-weighted form known as "W126."

Anna Garcia  
Executive Director

The Proposed Primary Ozone Standard

OTC is supportive of EPA's proposal for the primary ozone standard, within the range of 0.060 to 0.070 ppm and based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration. The proposed range consistent with the CASAC's recommendation, which resulted from an exhaustive review of all available health studies, and which related

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high ozone levels to increased mortality. The acute ozone exposure outcomes covered by the CASAC report included increased asthma medication use, school absenteeism, and premature mortality in those with preexisting heart and lung disease. In its review of the ozone standard, CASAC cited recent single-city and multi-city studies that show significant health impacts, including morbidity and mortality, from ozone concentrations much lower than the current standard, and recent clinical studies that show adverse lung function impacts in individuals at ozone levels as low as 0.060 ppm.<sup>1</sup> Since these adverse impacts were shown in healthy adults at low ozone concentrations, it is reasonable to expect that those with compromised respiratory systems, such as children with asthma, will experience more significant health impacts.

As further confirmation of the potential benefits of a primary ozone standard in the range of 0.060 to 0.070 ppm, information from an analysis conducted jointly by the OTC and the Northeast States for Coordinated Air Use Management (NESCAUM) using the Environmental Benefits Mapping and Analysis Program (BenMAP) show significant reductions in mortality and morbidity due to potential air quality improvements associated with implementing the CASAC primary ozone NAAQS recommendations. For example, the combination of avoided hospital admissions, asthma emergency room visits, school loss days, decreased worker productivity and reduced mortality from attainment of a 0.070 ppm standard could result in a total 107 to 498 million dollar benefit in the OTR in 2018. A more stringent 0.060 ppm proposed standard could result in a 394 million to 1.7 billion dollar benefit when compared to the current 75 ppb standard. This does not include additional benefits from reducing the long term effects of ground-level ozone pollution, such as those related to chronic exposure, which are not yet fully studied in the scientific literature.

### The Proposed Secondary Ozone Standard

OTC supports the EPA's proposed level and form of the secondary ozone standard, as a cumulative, seasonal standard in the range of 7-15 ppm-hour in terms of the maximum 3-month, 12-hour W126 form. This aligns with the CASAC recommendation, and is consistent with their unanimous finding that continuing to promulgate identical primary and secondary standards for ozone will not appropriately protect vegetation from known or anticipated effects of ambient ozone. Both the CASAC and the 2007 EPA Staff Paper concluded that EPA should establish an alternative cumulative secondary standard for ozone that is different in averaging time form and level from the current or potentially revised 8-hour primary ozone standard. Furthermore, both the CASAC and the 2007 EPA Staff Paper concluded that the W126 form was the more appropriate metric for the secondary ozone standard.

Research has shown that it is the long-term and cumulative exposure to ozone that is destructive to forest health, as it reduces forest productivity.<sup>2</sup> Thus a more biologically relevant

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<sup>1</sup> Letter from Dr. Rogene Henderson, Chair, CASAC, to EPA Administrator Stephen L. Johnson regarding CASAC's Peer Review of the Agency's 2<sup>nd</sup> Draft Staff Paper, (Oct. 24, 2006).

<sup>2</sup> Broadmeadow M 1998. Ozone and forest trees. *New Phytologist* 139: 123-125; Chappelka, AH, Samuelson L. 1998. Ambient ozone effects on forest trees of the eastern United States: a review. *New Phytologist* 139: 91-108

form for a secondary NAAQS, such as EPA has proposed, based on cumulative seasonal ozone exposure, will be more effective in protecting economically or ecologically important forests, crops and other sensitive vegetation, as compared to using the shorter 8-hour averaged concentration form of the primary ozone NAAQS. It is also our understanding that the EPA 2007 Staff Paper estimates that benefits of \$290-\$630 million annually (2000 dollars) will accrue if a standard of 13 ppm-hours based on the W126 form is implemented nationally,<sup>3</sup> and that other studies have estimated annual dollar benefits from ozone reductions ozone in the billions for the agriculture sector.<sup>4</sup>

## Implementation and Other Issues

It is paramount that EPA set the ozone NAAQS at a level necessary to protect the public health and welfare, with an adequate margin of safety, and without consideration of economic impacts. This is set forth in the CAA and was affirmed by the U.S. Supreme Court in *Whitman vs. American Trucking Association, Inc.*<sup>5</sup> Economic issues are important, but are to be taken into consideration as part of the implementation of a new NAAQS rather than in the standard setting stage. Cost considerations only apply after the new ozone standard is set, and then are considered in selecting among various strategies to meet the revised primary and secondary standards.

The OTC states support EPA's proposal for accelerated implementation of any new standards adopted as a result of the reconsideration, including the acceleration of the initial designation process. The OTC states agree that an accelerated designation process is important to avoid unnecessary delay in protecting public health. In addition, the OTC states urge EPA to issue the implementation rule contemporaneously with the adoption of the new ozone standard so that achieving the benefits of the tighter standard can be done as expeditiously as possible.

A critical issue in the implementation of any new ozone standard that addresses the regional nature of the ozone problem is the designation of regional non-attainment areas. It will also be preferable for EPA to designate areas for the secondary standard on the same accelerated schedule as that for the primary standard, to avoid duplication of effort and an unnecessary resource burden on the states. The assumption of a 200 km "buffer" for applying NO<sub>x</sub> reductions and for a 100 km "buffer" for applying volatile organic compound (VOC) reductions around counties not projected to meet a revised ozone NAAQS by 2020, as included in EPA's 2010 regulatory impact analysis (RIA) supplement, is inappropriate. In designating ozone non-attainment areas, it is critical that EPA look at ozone air sheds in the largest geographic area. While the non-attainment areas are bounded by Consolidated Metropolitan Statistical Areas (CMSA) and state lines, an appropriate non-attainment area designation scheme should allow

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<sup>3</sup> EPA OAQPS Staff Paper, "Review of the National Ambient Air Quality Standards for Ozone: Policy Assessment of Scientific and Technical Information," EPA-452/R-07-003, January 2007 (p. 7-28).

<sup>4</sup> Adams RM, Crocker TD 1989. The agricultural economics of environmental change: some lessons from air pollution. *J. Env'tl. Mgmt.* 28:295-307; Murphy JJ, Delucchi MA, McCubbin DR, Kim HJ. 1999. The cost of crop damage caused by ozone air pollution from motor vehicles. *J. Env'tl. Mgmt.* 55:273-289.

<sup>5</sup> *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001)

for a broad enough area to be identified as affecting its status such that most, if not all, sources contributing to the non-attainment status of the area are required to reduce emissions. The atmospheric conditions and chemistry for the formation and transport of ozone are not limited by state or county boundaries or artificial “buffers,” and there is no scientific basis for limiting the regional scope of the ozone problem in the manner EPA assumes in the RIA.

As the states prepare for these new requirements, they will rely on EPA’s national leadership to address ozone transport through adoption of national measures, cross-boundary coordination and federal in implementing programs on a regional and national level. A critical consideration in the implementation of a new ozone standard is to identify and implement cost-effective controls on a National and regional basis, since local controls alone will not achieve attainment. EPA recognizes in its proposal that ozone is a regional problem; however the Agency continues to focus its attention on local controls. OTC analysis has shown that more stringent and timely emissions limits, fuel standards, and broader, tighter caps on pollutants in trading programs would yield significant air quality benefits in our region. For example OTC encouraged EPA to move ahead quickly with a new clean regional fuel program consistent with the recommendations of the Administration’s Fuels Task Force.<sup>6</sup> Support for these programs would give much needed relief to the millions of residents in the northeast that are breathing polluted air. Additionally, States will need assistance, resources and tools from EPA to ensure the effective implementation of any new ozone NAAQS.

OTC has already advised EPA on several options for additional reduction strategies that are available from several source categories. One example of such a strategy is the recent focus many OTC states have placed on getting reductions on high electrical demand days. On high electrical demand days (HEDD) emissions from the operation of EGUs generally have not been addressed under existing air quality control requirements. These units are called into services on the very hot days of summer when air pollution levels are highest, and these states are working with the industry to identify actions that can be taken to reduce their HEDD emissions.

In closing, protecting the public health by relying on science and innovation demands that reductions in ozone and its precursors be a top priority for EPA and our states. With nearly two decades of experience in dealing with this issue, the OTC has ideas and suggestions on how to address meeting a tighter ozone standard which we will be glad to share. This will require a renewed partnership between the states and federal government, since there are cost-effective area-wide controls available to the federal agencies to effectuate that individual states are precluded from undertaking by law or for other reasons.

We encourage EPA to follow the recommendations of CASAC in finalizing the ozone NAAQS, and to consider our other specific recommendations provided in these comments as the Agency

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<sup>6</sup> Ozone Transport Commission, “MISC 06-04 Concerning Regional and State Measures to Address Emissions from Mobile Sources”, Adopted June 7, 2006.

develops the final rule. We stand ready to work with EPA to achieve healthful air as expeditiously as possible.

OTC appreciates the opportunity to submit these comments and welcomes discussion on this matter. Please contact me at (202) 508-3840 with questions.

Sincerely,

A handwritten signature in blue ink that reads "Anna Garcia". The signature is written in a cursive, flowing style.

Anna Garcia  
Executive Director