



**OZONE
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Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Air and Radiation Docket and Information Center
1301 Constitution Avenue, N.W.
Washington, DC 20460
Mail Code 2822T

RE: Proposed Rule – Docket No. EPA-HQ-OAR-2010-0885

Dear Administrator Jackson,

The Ozone Transport Commission (OTC) provides the following comments on the U.S. Environmental Protection Agency's (EPA's) proposed rule titled, "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes." The OTC is a multi-state organization created under the Clean Air Act responsible for advising EPA on transport issues and for developing and implementing regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic United States. OTC members include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. We also stress that the following comments represent opinions that a significant majority of OTC member states support.

Understatement of the Challenge

The proposed classification scheme understates the true scope of the air quality planning challenges faced by nonattainment areas, and that this scheme particularly understates the challenges faced by those Ozone Transport Region (OTR) jurisdictions for which a majority of contributing emissions originate from sources that lie outside of their designated nonattainment areas.

A Marginal area in the upper end of the proposed range will require about a 10 ppb reduction in 8-hour ozone levels in less than three (3) years. This is a tremendous challenge that will not be possible to meet unless reductions in transported ozone into the area are addressed adequately. As such, the OTC urges EPA to consider fully these impacts in its nonattainment designations and classifications by finalizing a classification scheme that would require the implementation of appropriate measures in a timeframe designed to bring healthy air to nonattainment areas as expeditiously as practicable.

The EPA Analysis is Flawed

The EPA analysis referenced in footnote 18 of EPA's classification proposal (77 FR 8197, at 8202) estimating 2015 design values for hypothetical ozone nonattainment areas for the 75 ppb National Ambient Air Quality Standards (NAAQS), is

significantly flawed. This analysis suffers from its linear estimates of air quality improvements and also in its use of notably low ozone design values from 2008-2010. EPA should correct the analysis to address these flaws and should provide appropriate caveats to the use of this analysis. OTC recommends that EPA include a clarification that the hypothetical design values in this analysis are not intended to be a realistic portrayal of probable 2015 design values for ozone.

Further, the OTC has completed several screening model runs showing potential pathways to attainment for the 75 ppb ozone standard. In contrast to the EPA analysis, these results demonstrate that substantial reductions in oxides of nitrogen (NO_x), as well as Volatile Organic Compounds (VOCs), are needed throughout the eastern half of the U.S. in order for the OTR to achieve levels of ozone that meet the standard by 2015 and beyond. OTC's more robust analysis indicates that EPA's proposed marginal classification scheme for the vast majority of the nonattainment areas is likely to fail to ensure attainment because neither those areas, nor contributing upwind areas, will be required to reduce their emissions beyond any measures that are already on the books.

EPA has also proposed two options with respect to the attainment deadline associated with each area classification (*77 Federal Register* 8203-8204.) OTC believes that the ozone attainment deadlines are specifically set by the statutory language which is most consistent with EPA's option 1. OTC cannot support any proposal that delays meeting the ozone standard beyond the statutory requirements set out in the Clean Air Act.

Retain Transportation Conformity Requirements

EPA's proposal (*77 Federal Register* 8204-8206) to revoke the 1997 ozone standard one year after the effective date of designations for the 2008 ozone standard for the purpose of transportation conformity is premature given that the remaining portion of the implementation rule for transportation conformity remains outstanding. We are especially interested in ensuring against any backsliding relative to transportation conformity during the transition to the 2008 standard. As such, OTC recommends that EPA withdraw this proposal and re-propose when it publishes the remaining implementation requirements in a separate rulemaking. We also urge EPA to propose and promulgate the rule as quickly as possible.

The OTC has long worked to address the interstate transport of ozone forming precursor emissions into and throughout the Ozone Transport Region to assist the states in meeting ozone health standards. We welcome further discussion on this issue and offer our assistance to EPA as a multi-state organization which has over 20 years of in depth experience with efforts to attain the ozone NAAQS. Please contact me with any questions at (202) 508-3840.

Sincerely,



J. Wick Havens
Interim Executive Director