



**TESTIMONY OF CHRISTOPHER RECCHIA
ON BEHALF OF THE
OZONE TRANSPORT COMMISSION
BEFORE THE U.S. ENVIRONMENTAL PROTECTION AGENCY
ON IT'S PROPOSED RULE TO IMPLEMENT THE 8-HOUR OZONE
NATIONAL AMBIENT AIR QUALITY STANDARD
68 FR 32802**

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Christopher Recchia
Executive Director

444 N. Capitol St. NW
Suite 638
Washington, DC 20001
(202) 508-3840
FAX (202) 508-3841
Email: ozone@sso.org

Good morning, and thank you for the opportunity to testify on the U.S. Environmental Protection Agency's (EPA's) June 2, 2003 proposed rule to implement the 8-hour ozone National Ambient Air Quality Standard. My name is Chris Recchia, Executive Director of the Ozone Transport Commission (OTC), and I am testifying today on behalf of the Commission. OTC was created by Congress under the Clean Air Act Amendments of 1990 to coordinate ground-level ozone air pollution planning in the Northeast and Mid-Atlantic region of the U.S. It represents 12 states and the District of Columbia.

As you likely know, OTC works regularly and constructively with EPA on a variety of air issues, and has been pleased to champion EPA's good work, as recently as on its proposed diesel rules. Unfortunately, the rule before us does not present such an occasion. OTC opposes the use of Option 2 in the draft rule as it is proposed.

OTC is most concerned that the draft eight-hour ozone standard implementation rule does nothing to address transport, nor does it draw upon the existing provisions of the Clean Air Act to address transport.

Specifically, the proposed rule does not include effective measures to counter the effects of pollution transport on air quality in non-attainment areas. Unless the rule includes such measures, the non-attainment areas will be driven to take increasingly more costly (and less cost effective) actions to reduce ozone concentrations. This does not make sound economic or policy sense when there are more cost-effective measures available that address sources contributing to the transport problem. It also exacerbates an ongoing inequity between upwind sources and the ozone transport region (OTR) that is, frankly, inexcusable in this day. The OTC states incur higher energy costs as a result of us "doing the right thing" and we continue to experience premature deaths and respiratory related illnesses as a direct result of the pollution resulting from these upwind sources.

Today, we are still awaiting full implementation of regional rules that were developed to address transport in 1997. The science tells us that

eight-hour ozone levels in our region are affected more by ozone transport than are one-hour ozone levels. Economics tells us that regional solutions are more cost-effective. We believe there are better options available, other than simply expanding non-attainment areas, to hold upwind areas accountable for their impacts on downwind areas. Simply put, states won't be able to solve a regional problem with increasingly expensive local control measures.

OTC believes that four critical principles should guide the implementation of the eight-hour ozone standard:

Public Health First

Classification and implementation for the eight-hour ozone standard must be developed to ensure attainment as expeditiously as possible, so that public health protection is not delayed. OTC is concerned with policies that forgo requiring specific control measures, delay the requirement of control measures, or weaken existing requirements.

Specifically, the preference for designating areas under Clean Air Act Title I Part D, Subpart 1 will forgo application of effective proven measures that existing non-attainment areas within the Ozone Transport Region (OTR) already have in place such, as Inspection and Maintenance of vehicles and NOx RACT.

Further, proposed Early Action Compacts for areas classified under Subpart 1 create the potential for significant delays for SIP submittals and achieving reductions. Areas with Early Action Compact agreements that are not able to demonstrate attainment by the end of 2007 may not ultimately need to demonstrate attainment until 2020; SIP submittal would not be required until 2008 versus 2004 and Subpart 1 allows significant extensions. There are currently 35 areas intending to pursue Early Action Compacts - many are upwind from the OTR. We believe EPA will eviscerate the SIP call with Subpart 1.

Accountability and Fair Share

We agree that areas that violate the eight-hour ozone standard must be held accountable for their emissions that contribute to unhealthy air. Upwind areas that contribute to unhealthy air quality in the region must also be held accountable: this should clearly include areas that are not classified as non-attainment, but which demonstrably contribute to downwind air quality problems. To effectively reduce ozone levels and address ozone transport, EPA's eight-hour implementation policies must be consistent with the current scientific knowledge and principles of economic equity.

Given the two options currently on the table, OTC believes the burden is on EPA to demonstrate that designation under Option 2 versus Option 1 does not translate into disparity in air quality improvements. The proposed rule

acknowledges the major findings of the OTAG process: namely, that “regional NOx reductions are effective in producing ozone benefits,” and that “ozone is transported, and that ozone aloft is carried over and transported from one day to the next.” It just fails to reflect this finding in its proposal.

What analysis has been performed, to date, demonstrating that requirements and timeframes under Subpart 1 classification would provide comparable reductions—locally and downwind - to classification under Subpart 2? Further, have the potentially significant delays under the Early Action Compact provided for under Subpart 1 been analyzed? We believe such an analysis would show that the Subpart 1 option could not meet the rule objectives.

Effective National and Regional Controls

Strong and timely national and regional “base level” controls are necessary. These controls need to be expeditious and achieve greater reductions than are currently required even in the NOx SIP call and the Acid Rain Program.

EPA describes the proposed rule as recognizing the merits of the Clear Skies Act in addressing long-range transport and that no determination has been made that additional reductions are warranted. The proposed rule cites the future implementation of the NOx SIP call and Section 126 rules as having addressed transport “up-front” for designations, and describes the proposed Clear Skies Act as translating into even further reductions. However, EPA Analysis shows only a four county improvement in attainment status in the OTR as a result of additional reductions from Clear Skies. Furthermore, while OTC strongly supports regional reductions, there is no guarantee that any multi-pollutant legislation will be enacted, nor is the timeframe for implementation of EPA’s alternative, the Transport Rule, likely to help 8-hour non-attainment areas to attain the standard within the required timeframe.

OTC believes the same type of control measures already in place throughout the OTR should be applied in upwind areas affecting the air quality in the region. These have proven effective scientifically and economically. Potential measures include those required in the OTR by Subpart 2 and additional measures the region has pursued in attaining and maintaining the one-hour standard.

Flexibility

After establishing accountability with respect to basic control requirements to address the eight-hour ozone standard, areas that need additional, local controls must have the flexibility to: (1) assess how best to address their contributions from source sectors, taking into consideration criteria such as source density and high volume individual sources; and (2) choose how they will achieve reductions, within the context of their-State Implementation Plans.

Flexibility for newly designated non-attainment areas should not translate into sanctions for existing non-attainment areas. Provisions included for flexibility should not allow a delay in adopting control measures submitted as part of a SIP.

Again, OTC states its objection to this rule unless implementation occurs under Option 1, with all non-attainment areas, and areas contributing to non-attainment, subject to Subpart 2. OTC calls for an implementation plan that is based on strong, proven, cost-effective and equitable control programs.

Thank you again for the opportunity to testify. OTC will be submitting more detailed comments into the docket within the next several weeks, and as always, stand ready to work with EPA on any rulemaking designed to advance the principles noted herein.

Respectfully Submitted,

Christopher Recchia