

**OZONE
TRANSPORT
COMMISSION**

March 12, 2021

Michael Regan, Administrator
U.S. Environmental Protection Agency
Office of the Administrator, Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Connecticut

Delaware

District of Columbia

Maine

Maryland

Massachusetts

New Hampshire

New Jersey

New York

Pennsylvania

Rhode Island

Vermont

Virginia

Dear Administrator Regan:

The members of the Ozone Transport Commission (OTC) write to welcome and congratulate you upon your arrival as Administrator of the U.S. Environmental Protection Agency (EPA). The OTC looks forward to working with you in pursuit of our common priorities to bring cleaner air and a healthier environment to all citizens, particularly those who live in communities that are disproportionately burdened by air pollution.

As an introduction to our organization, the OTC encompasses a multi-state "Ozone Transport Region" (OTR) created under sec. 184(a) of the 1990 Clean Air Act Amendments. Its members, as established by Congress, are Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. The EPA Administrator and the Regional Administrators of Regions 1, 2, and 3 are non-voting members. The state governors and mayor of the District typically appoint their lead environmental and air quality officials as representatives to the Commission. The OTC is responsible for advising EPA on ozone pollution transport issues and for developing and implementing regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic regions. We work on a bipartisan basis.

While the OTC's mission is to help solve our regional ozone problem, the strategies to do this encompass actions that have cross-cutting benefits. For example, addressing non-EGU stationary sources, energy transformations on high electric demand days, and cleaner transportation options will help reduce regional ozone, but are also needed to address our changing climate and the pollution inequities placed upon disadvantaged communities.

With your own state background coming to EPA after leading the North Carolina Department of Environmental Quality, you bring a personal

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understanding of the concerns that state environmental officials have in seeking to achieve public health, climate, and equity objectives through state and federal cooperation. Since its inception, the OTC has made enormous strides in reducing ground level ozone throughout the OTR, and much of the OTR has been brought into attainment with the National Ambient Air Quality Standards (NAAQS) for ozone. However, diminishing but persistent areas of ozone nonattainment remain (see attachment), and one of our major challenges is fully resolving the significant contributions to ozone problems in our region from upwind pollution sources located outside the OTR's borders.

To this end, our chief request upon the start of your tenure is for EPA to work with us in developing a complete remedy to the interstate transport of ozone pollution. The interstate nature of this problem requires a meaningful partnership between EPA and the states. Over many years and across multiple administrations, however, EPA has adopted pollution transport rules containing inadequate measures on extended timelines, and these rules have been repeatedly remanded or vacated by the courts for failure to fully address interstate pollution transport by the required statutory deadlines. In addition, several recent regulatory roll-backs imperil the progress that we have made and our ability to maintain attainment of clean air requirements where it has been achieved. This has left our citizens at continuing risk from elevated exposures to ozone. Furthermore, with the COVID-19 pandemic, this failure to timely resolve our longstanding regional ozone transport problem has brought into stark relief the inequities facing disadvantaged communities as they suffer greater mortality risk and other adverse health outcomes due to the impacts of COVID-19 compounded by their elevated air pollution burdens.¹ This could have been mitigated.

While we are frustrated, we see opportunities. There are a number of common priorities shared between the new administration and the OTC. We highlight just a few below that we believe align well with the agenda of the new administration.

- *California Motor Vehicle Standards*

The OTC is on record strongly supporting California's right under the Clean Air Act to adopt and enforce clean vehicle emission standards, and by extension the right of other states to adopt California vehicle standards if they so choose.² Most of the OTC members have adopted California clean vehicle standards that have historically been more stringent than federal requirements. Some of our members have also adopted California's zero emissions vehicle requirement.

¹ A. Pozzer, F. Dominici, A. Haines, C. Witt, T. Münzel, and J. Lelieveld, Regional and global contributions of air pollution to risk of death from COVID-19, *Cardiovascular Research*, Vol. 116, pp. 2247–2253 (2020); doi:10.1093/cvr/cvaa288.

² Resolution of the Ozone Transport Commission Concerning States' Rights and Vehicle Emissions, June 7, 2018.

- *Zero Emission Medium- and Heavy-Duty Trucks*

The OTC recently issued a formal statement supporting cooperative efforts to accelerate the widespread introduction of zero emission medium- and heavy-duty trucks as a regional air quality strategy.³ A number of the OTC states have also joined with states outside the region, including North Carolina, in a governor-level memorandum of understanding to further advance the introduction of zero-emission trucks through cooperative efforts.⁴

- *Aftermarket Catalysts and Anti-tampering Enforcement for Mobile Source Pollution Controls*

The OTC has a long history of seeking effective aftermarket catalytic converter performance requirements and anti-tampering enforcement of installed mobile source pollution controls.⁵ We are heartened to see recent efforts by EPA in this area and look forward to working cooperatively with the Agency in this endeavor.

These collective measures will help reduce ozone within the OTC region, diminish upwind contributions, provide climate benefits, and ultimately eliminate air toxics from vehicle exhaust that disproportionately affect communities adjacent to busy highway corridors, distribution centers, ports, and industrial areas.

The OTC's strategies rely on sound science in decision making, and a robust accounting of benefits and costs arising from clean air measures. To that end, we urge you to restore EPA's use of the best available science and a fuller economic accounting of all co-benefits that underpin effective clean air programs. Unreasonably restricting the use of science and sound economic analysis only serves to continue the systemic failure to provide a complete picture of the air pollution burdens placed upon disadvantaged communities, while ignoring the full range of achievable benefits.

To reinvigorate our federal-state partnership, we request a meeting with you and your senior team in the Office of Air and Radiation to discuss the alignment of our interests in furthering progress in public health protection from the damages of air pollution, synergies with climate change policy, and an equitable framework that brings greater air quality benefits to our most burdened communities. Paul Miller, OTC's Executive Director, will contact your office to arrange an initial virtual meeting.

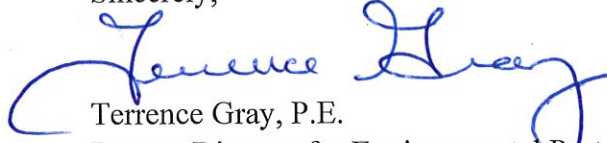
³ Statement of the Ozone Transport Commission Regarding the Need to Accelerate Electrification of Medium- and Heavy-duty Vehicles, June 2, 2020.

⁴ Multi-State Medium- and Heavy-Duty Zero Emission Vehicle Memorandum of Understanding, July 14, 2020.

⁵ Letter to U.S. EPA Administrator Wheeler, Re: EPA aftermarket catalytic converter enforcement policy (August 28, 2019); Letter to E. Belsler and L. Cook, U.S. EPA, Re: Requesting EPA update aftermarket catalytic converter enforcement policy (December 31, 2018); Letter to U.S. EPA Administrator Pruitt, Re: 1986 Federal Aftermarket Catalytic Converter Enforcement Policy (August 21, 2017); Statement of the Ozone Transport Commission Requesting that the United States Environmental Protection Agency Update the Federal Aftermarket Catalytic Converter Policy (June 6, 2017); Letter to U.S. EPA Administrator McCarthy, Re: Updating the Federal Aftermarket Catalytic Converter Policy (June 14, 2014); Statement of the OTC Calling on the EPA to Update its Policy on Motor Vehicle Aftermarket Catalytic Converters (June 10, 2009).

Once again, congratulations and welcome as you take on leadership of the EPA. Your success will be our success, and we look forward to engaging in a renewed effort to fully and forthrightly address our most pressing air quality, climate, and equity issues.

Sincerely,



Terrence Gray, P.E.

Deputy Director for Environmental Protection

Rhode Island Department of Environmental Management

OTC Chair

Attachment: Ozone NAAQS nonattainment map

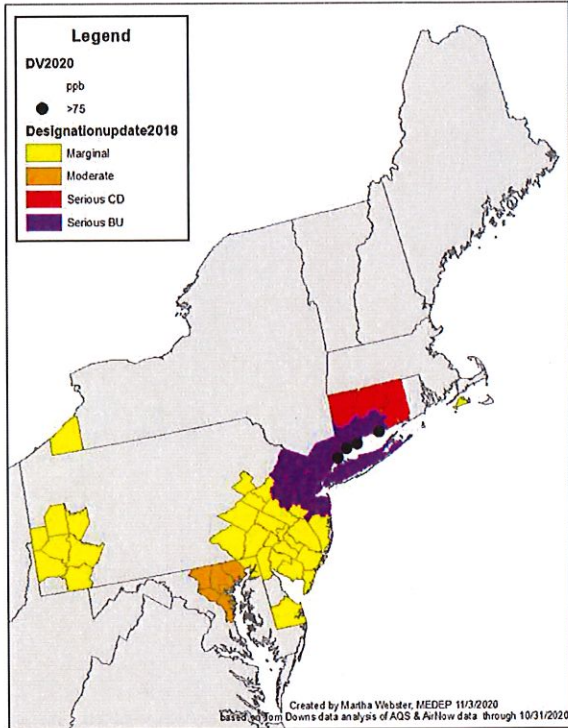
cc: OTC Commissioners and Air Directors

U.S. EPA Acting Regional Administrators for Regions I, II, and III

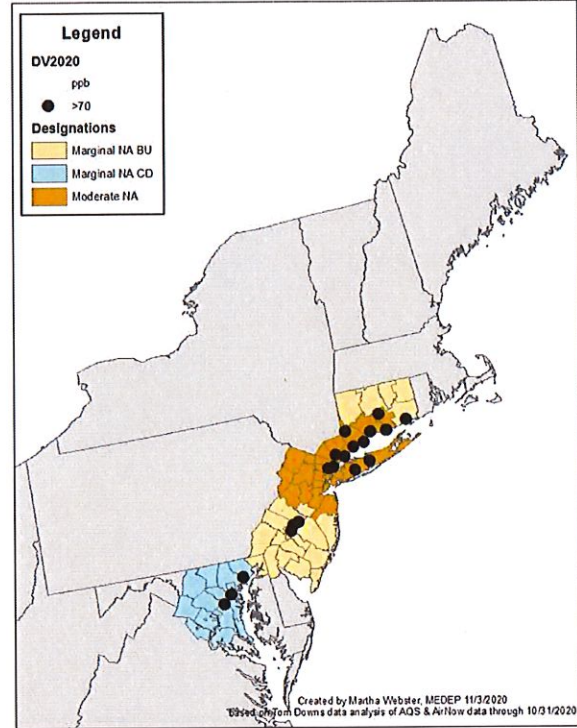
Attachment

Current Ozone Nonattainment Areas in the OTR - 2008 NAAQS (left), 2015 NAAQS (right)

2020 Preliminary Ozone Design Value with 2008 Ozone Nonattainment Areas



2020 Preliminary Ozone Design Value with 2015 Ozone Nonattainment Areas



Note: The OTR Marginal and Moderate areas for the 2008 NAAQS have achieved Clean Data as of 2020, meaning that the most recent final 8-hour ozone design values are below the NAAQS.