

**TESTIMONY OF ANNA GARCIA
ON BEHALF OF THE
OZONE TRANSPORT COMMISSION
BEFORE THE U.S. ENVIRONMENTAL PROTECTION AGENCY
ON ESTABLISHING NEW NATIONAL AMBIENT AIR QUALITY STANDARDS
FOR OZONE**

40 CFR Parts 50 and 58

February 2, 2010

Good afternoon and thank you for the opportunity to testify on the U.S. Environmental Protection Agency's (EPA's) January 19, 2010 proposed rule to revise the National Ambient Air Quality Standards for Ozone. My name is Anna Garcia, and I am the Executive Director of the Ozone Transport Commission (OTC). 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. Members of the OTC include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, New Hampshire, New Jersey, New York, Massachusetts, Pennsylvania, Rhode Island, Virginia, and Vermont. In addition to today's testimony, OTC will submit written comments by the March 22, 2010 deadline.

Ozone Standards and Ozone Transport

OTC has been closely following the EPA's progress on setting new National Ambient Air Quality Standards (NAAQS) for ozone, from its original proposal in 2007 through the recent reconsideration of the standards resulting in the January 19th proposed revision. OTC commends EPA on its decision to propose lower, more stringent primary and secondary standards that follow the recommendations of the Clean Air Scientific Advisory Committee (CASAC) and offer greater protection to our citizens and the environment that they rely upon. As an ozone-

centric organization, OTC understands deeply the important role that these standards play in protecting public health and in restoring our environmental and agricultural resources. The OTC is conducting a careful review of the proposed rule among our member states to provide more detailed written comments to the EPA docket.

An important part of the OTC's mandate is a focus on pollution that crosses political jurisdictions. This *transported pollution* often travels hundreds of miles from its original sources. Our analyses show that the proposed lower standards for ozone will amplify the need for regional and national measures (in addition to local actions) to reduce the transport component of our ozone problem. The OTC states have implemented numerous local and regional measures that have decreased their emissions to meet the ozone standards, yet transported pollutants from downwind sources, including many outside the Ozone Transport Region (OTR), continue to contribute significant amounts of ozone and ozone precursors into the Northeast and prevent attainment in many areas. For example, OTC states have recorded polluted air blowing into the OTR that already exceeds the proposed primary and secondary ozone standards. Despite the challenges that attainment of these standards present, OTC strongly supports the EPA proposed more stringent ozone standards because they offer greater protection to our citizens and their environment.

Science and Process

In establishing the ozone NAAQS, OTC supports EPA's decision to rely on the science represented in the CASAC recommendations for both the primary and secondary standards. Specifically, the CASAC recommendations for ozone indicated that to protect public health with

an adequate margin of safety and in accordance with the latest scientific studies, the primary standard would need to be within the range of .060 to .070 ppm. In its review, the CASAC cited single-city and multi-city studies that show significant health impacts, including morbidity and mortality, from ozone concentrations much lower than the current standard. Recent clinical studies show adverse lung function impacts in individuals at ozone levels as low as .060 ppm.¹ OTC supports the work of the CASAC and applauds EPA for proposing to revise the primary and secondary NAAQS in accordance with their findings.

Health and Costs

As set forth in the CAA and affirmed in *Whitman v. American Trucking Association, Inc.*,² the NAAQS is to be set at a level necessary to protect public health and welfare, with an adequate margin of safety and without consideration of economic impacts. A study conducted by OTC and the Northeast States for Coordinated Air Use Management (NESCAUM) estimated that a primary standard within the CASAC proposed range could save between 25 – 250 lives in the OTC region annually.³ This would double the number of lives saved in the OTC region compared to EPA's previous 75ppb standard promulgated in March 2008. In the OTC region, we predict that the proposed standard would save nearly \$3 million in a single ozone season though increased productivity resulting from improved employee health and a reduction in pollution related illnesses. EPA's updated regulatory impact analysis (RIA) shows that the benefits nationally would be even greater, totaling as much as \$100 billion per year in 2020.

¹ Dr. Rogene Henderson, CASAC Chair Letter to the Honorable Stephen L. Johnson regarding CASAC's Peer Review of the Agency's 2nd Draft Staff Paper, (Oct. 24, 2006) at 2.

² *Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001)

³ NESCAUM. 2008. "Public Health Benefits of Reducing Ground-level Ozone and Fine Particle Matter in the Northeast U.S. A Benefits Mapping and Analysis Program (BenMAP) Study Prepared by NESCAUM for the Ozone Transport Commission and the Mid-Atlantic/Northeast Visibility Union". Available at: http://www.nescaum.org/documents/benmap_report_1-16-08.pdf

EPA's updated RIA also provides a cost estimate for the proposed revised standards; however, as the CAA specifies that cost considerations should not be a factor in setting standards designed to protect public health and welfare, we simply note that the RIA finds the financial benefits of the proposed NAAQS significantly outweigh the costs by over two-and-a-half times. The benefits of the proposed rule will go beyond direct financial benefits, as they will be realized through the improved health and well-being of our citizens, as well as the increased robustness of sensitive vegetation and ecosystems.

Implementation and Solutions

There are several practical factors to consider as EPA looks toward implementation of these proposed new standards. It is important that this decision not create duplicative or unnecessary requirements for state regulators, while also ensuring that air quality is protected during transition from the 1997 and 2008 ozone NAAQS to the proposed more stringent standards. EPA has noted that the 2008 and 1997 8-hour ozone standards remain in place until EPA finalizes any new standards. In addition, the Administrator proposes an accelerated implementation schedule for any new standards, and that the deadline for designations for the 2008 ozone standard will be deferred until 2011. The retention of the earlier standards will prevent unnecessary backsliding, and the accelerated schedule will potentially relieve states from submitting multiple state implementation plans (SIPs) in a span of just a few years. It is also important to the OTC states that EPA keeps to a short timeline for designations, as they are a necessity for state authorities to implement ozone-reducing strategies.

The process of designating non-attainment areas is another critical issue that can help address the regional nature of the ozone problem. In designating ozone non-attainment areas, it is critical that EPA look at ozone airsheds in the largest geographic area.

OTC has advised EPA on several options for additional reduction strategies that are available from several source categories. Among these are cost-effective ozone precursor emissions reductions from several stationary, mobile and areas source categories. Our analysis has shown that more stringent and timely emissions limits, fuel standards, and broader, tighter caps on pollutants that transition to unit-specific performance standards on a national basis would yield significant air quality benefits in our region. Support for these programs would give much needed relief to the nearly 64 million US citizens in the Northeast that are breathing polluted air. OTC plans to provide additional recommendations at our OTC Annual Meeting in June 2010. In the meantime, states will need assistance, resources and tools from EPA to ensure the effective implementation of any new ozone NAAQS.

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 as implementation guidance is developed once new standards are adopted. This will be accomplished through a close partnership between the states and federal government, since there are cost-effective controls

available to the federal agencies to effectuate that individual states are precluded from undertaking by law or for other reasons.

We stand ready to work with you to achieve healthful air as expeditiously as possible. Thank you for the opportunity to provide OTC's testimony.