



**OZONE
TRANSPORT
COMMISSION**

December 31, 2018

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U.S. Environmental Protection Agency
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Connecticut

Delaware

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Dear Mr. Belser and Ms. Cook:

Thank you for engaging in a dialogue with the Ozone Transport Commission (OTC) with regard to the U.S. Environmental Protection Agency's (EPA) September 2018 "Preview of the Draft 'EPA Tampering Policy' for Stakeholder Awareness". The OTC has previously shared with you our comments on the "Preview" and is attaching those comments to this letter. The OTC has an extensive record of articulating the need to update existing policy governing aftermarket catalyst converter (AMCC) replacements, and urging EPA to update and strengthen the policy consistent with the advancement in vehicle emission controls over the past several decades.¹ The existing and severely outdated policy² fails to provide oxides of nitrogen (NOx) and other pollutant benefits that could be achieved if more stringent, and achievable, standards were put in place and a robust roll-out and enforcement plan was implemented. OTC continues to recommend that EPA significantly update its regulations and enforcement policies to ensure AMCC achieve the same level of emissions control over the vehicles useful life as the original equipment converters. The policy and programs for AMCC impact all vehicles, all states, and needs to be considered in reducing interstate air pollution. The most efficient means of helping states is for EPA to update its policy to ensure AMCC provide needed emission reductions and air quality improvement.

David C. Foerter
Executive Director

¹ The OTC states requested that EPA update the AMCC Policy June 2009 and submitted a recommendation for an updated policy to EPA April 8, 2011.

² The current federal AMCC Policy was published on August 5, 1986 (Notice of Proposed Enforcement Policy regarding the "Sale and Use of Aftermarket Catalytic Converters," 51FR 28114) and has not been updated to reflect the significant changes in automotive technologies and vehicle emission standards.

OTC's analysis shows that a properly updated policy, and enforcement of the policy, can significantly reduce NOx emissions both inside and outside the Ozone Transport Region (OTR), and that reducing regional NOx emissions is key to continued progress on ozone. In correspondence to the EPA Administrator on August 21, 2017, the OTC made requests for updating policies and programs governing the AMCC and made specific recommendations.³ The goal of any update of the federal vehicle tampering policy that addresses aftermarket catalyst sales and use, needs to ensure that replacement catalysts will perform over the vehicle's useful life consistent with the original equipment they replace. Properly updating the AMCC policy will ensure the expected emissions from the legacy vehicle fleet, protect investments in cleaner cars, and assist states in meeting and maintaining the ozone health standard. Nearly all the region already takes part in the clean vehicles program, making up the largest concentrated market for these cleaner vehicles outside of California. Aftermarket catalysts manufactured to the best available technology standards are a fundamental component of ensuring sustained emission reductions from the cleaner cars.

While initially encouraged that EPA was updating its policy, OTC is now extremely concerned, based on the preview provided, that the new policy will fall far short of the expectations and needs of the states to address ozone transport, improve air quality, and protect public health. Further, OTC is discouraged that the full document will not be shared for discussion prior to finalization.

The OTC is the regional non-partisan organization created by Congress comprised of twelve states and the District of Columbia working cooperatively along with federal partners to address the transport of ground level ozone that negatively impacts a region of more than 66 million people. Since its creation, the OTC has been tremendously successful in state and federal efforts to reduce ozone concentrations in all member states by acknowledging and driving science and technology towards efficiency, thereby creating a healthier environment for the region. Despite this success, half of OTC's nearly 66 million residents are still breathing air that exceeds the ozone National Ambient Air Quality Standard (NAAQS). The science is clear, additional reductions of NOx are necessary to bring all areas in the region into attainment of the ozone health standards.

The OTC is encouraged that EPA is updating its enforcement policy on vehicle and engine tampering and aftermarket defeat devices and note that there is widespread state and industry support for a strong and meaningful policy update. However, the "Preview" appears to fall short of the OTC's recommendations on record and expectations. At a minimum, the policy should include the requirements that aftermarket catalysts are expected to meet including explicit emission performance levels and what testing requirement manufacturers will be required to meet to demonstrate compliance. In addition, the effectiveness of the policy with regard to AMCCs will depend on a strong outreach and enforcement program and effective methods to identify noncompliant parts, including a parts labeling requirement.

³ OTC letter (Grumbles and Snyder) to EPA Administrator Pruitt, August 21, 2017; Attachment B: OTC Mobile Source Committee Recommended Federal Aftermarket Catalytic Converter Program (FACCP), Section III (page 3), "Main Components of the Recommended Aftermarket Catalytic Converter Program"

In closing, we reaffirm our commitment to work cooperatively with federal, state and industry partners in accomplishing the goal of a meaningful policy update. I look forward to continuing to work with EPA on driving this issue to a successful and mutually acceptable conclusion.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Foerter', with a stylized flourish at the end.

David C. Foerter
Executive Director, OTC

cc: OTC Commissioners and Air Directors

Enclosures a/s