

Appendix 3D

EPA Ask Letters

September 2, 2009

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, DC 20460

Dear Administrator Jackson:

On behalf of 17 states in the eastern half of the U.S., we wish to provide the following recommendations to the Environmental Protection Agency (EPA) to consider as it develops a replacement rule for the Clean Air Interstate Rule (CAIR), in light of the December 23, 2008, remand by the U.S. Court of Appeals for the D.C. Circuit.

The recommendations follow through on the commitment we made in the March 9, 2009, Framework Document to work together to address the transport requirements of Section 110(a)(2)(D) of the Clean Air Act (CAA), and to attain the ozone and PM_{2.5} National Ambient Air Quality Standards (NAAQS). Please understand that in preparing these recommendations our fundamental air quality objective is to achieve attainment and ensure maintenance of the NAAQS as expeditiously as practicable.

As the result of our collaboration, we recommend for your consideration a framework, which is based on in-depth technical evaluations and a sincere and concerted effort by all states to reach common ground on an overall approach to addressing transport. This comprehensive framework comprises national rules involving significantly contributing states that combine statewide emissions caps and complementary regional trading programs with a state-led planning process to address transport in a multi-pronged and layered approach. While the undersigned states have reached consensus on this suggested framework, there are some regional differences concerning the timing and stringency of electric generating unit (EGU) reductions, and the criteria for determining which states are included in the state-led planning process. In addition, the states differ in their perspectives on whether performance based standards should be part of the strategy.

The Lake Michigan Air Directors Consortium (LADCO) and the Ozone Transport Commission (OTC) will be submitting separate letters to explain their perspectives on these areas of regional differences on implementation of the framework.

Many areas in the eastern U.S. are designated as nonattainment for the current ozone and PM_{2.5} standards (1997 version), and it is expected that even more areas will not be in compliance with 2008 ozone and 2006 PM_{2.5} standards. Numerous data analysis and modeling studies have shown that some (not all) of these nonattainment problems are strongly influenced by inter-state transport.

Additional regional emission reductions will be necessary to help states meet the new air quality standards. A timely and robust federal program that requires substantial regional emission reductions from mobile sources, area sources and large point sources such as

EGUs is an essential component of any strategy to reduce interstate transport of air pollution. These reductions are necessary to attain and maintain compliance with the NAAQS.

The undersigned states recommend a 3-step approach, as further discussed below, to establish a framework from which to address the requirements of CAA section 110(a)(2)(D):

1. Identifying areas of interest (i.e., those not meeting the standards and those struggling to maintain the standards);
2. Identifying, based on specific criteria, upwind states which contribute to nonattainment or interfere with maintenance in these areas of interest; and
3. Implementing a multi-sector remedy to meet CAA requirements.

Step 1 - Identifying Areas of Interest

- A. While the requirements of Section 110(a)(2)(D) apply to all areas, most attention should be given to those areas not meeting or struggling to maintain the NAAQS. These "areas of interest" should be identified using monitoring and modeling data.
- B. Specifically, areas with both base monitored design values and future modeled design values above the applicable NAAQS should be designated as areas of interest. The monitored design values are based on the maximum design value from the periods 2003-2005 through the most recent three-year period, and the future modeled values are based on future year modeling which reflects legally enforceable control measures and a conservative model attainment test - i.e., use of maximum design values rather than average design values.
 1. The use of maximum design values and a conservative model attainment test are intended to account for historic variability, which is necessary to ensure maintenance. An alternative means of accounting for historic variability is to conduct a statistical analysis of the year-to-year variation in meteorology.
 2. Requiring a more conservative model attainment test will necessitate a change in EPA's modeling guidance. EPA should also establish performance criteria to insure that the modeling is capturing transport appropriately.
 3. EPA's approach in CAIR also reflects a "monitored and modeled" test to identify areas of interest.

Step 2 - Identifying Upwind States that Significantly Contribute to Nonattainment or Interfere with Maintenance

- A. An upwind state significantly contributes to nonattainment or interferes with maintenance in a downwind area of interest if its total impact from all source sectors equals or exceeds 1% of the applicable NAAQS.

- B. Individual state contributions should be determined through a weight-of-evidence approach, including source apportionment modeling.
- C. Use of 1% of the NAAQS as the significance threshold is consistent with EPA's approach in CAIR.

Step 3 - Implementing a Multi-Sector Remedy to Meet Clean Air Act Requirements

A two-part process is recommended consisting of: (A) a national/regional control program adopted by EPA for EGUs and additional federal control measures for other sectors, and (B) state-led efforts to develop, adopt, and implement federally enforceable plans for each area of interest that is not expected to attain the standards even after implementation of the national/regional program.

A. National/Regional Control Program

A significantly contributing state (i.e., a state which contributes at least 1% to a downwind area of interest) must comply with the national/regional control program described below.

1. EGU point source strategy (applicable to units ≥ 25 MW)
In adopting a CAIR replacement rule EPA should:
 - (a) make federally enforceable through appropriate mechanisms all nitrogen oxide (NO_x) and sulfur dioxide (SO₂) controls to comply with the original CAIR Phase I program;
 - (b) make federally enforceable through appropriate mechanisms optimization by no later than early 2014 of existing NO_x and SO₂ controls;
 - (c) make federally enforceable through appropriate mechanisms application by 2015 of low capital cost NO_x controls;
 - (d) establish statewide emission caps by no later than 2017 for all fossil fuel-fired units ≥ 25 MW. The caps should reflect an analysis of NO_x and SO₂ controls on coal-fired units ≥ 100 MW which, in combination with the three measures above, will achieve rates that are not expected to exceed 0.25 lb/MMBTU for SO₂ (annual average for all units ≥ 25 MW) and 0.11 lb/MMBTU for NO_x (ozone seasonal and annual average for all units ≥ 25 MW) and which will result in lower rates in some states. Previously banked emissions under the Title IV or CAIR programs shall not be used to comply with the state-wide emission caps; and
 - (e) to the fullest extent allowed under the Clean Air Act, EPA should work with the states to establish regional emissions caps with full emissions trading to replace the caps currently applicable under CAIR.

Again, there are regional differences on some elements of the EGU point source strategy, including mechanisms for achieving reductions prior to 2017. Further recommendations will be provided in separate letters by LADCO and OTC.

2. Non-EGU point source strategy

- a. EPA should identify and prioritize other categories of point sources with major emissions of NO_x and/or SO₂ (e.g., cement plants) based on a review of available emissions inventories and other information, such as source apportionment studies.
 - b. For the non-EGU point sources, EPA should identify and evaluate control options for reducing NO_x and/or SO₂ emissions. The evaluation should consider the technological, engineering, and economic feasibility of each control option.
 - c. At a minimum, EPA should evaluate the technological, engineering, and implementation feasibility, and cost-effectiveness of controlling SO₂ and NO_x emissions from industrial, commercial, and institutional boilers ≥ 100 MMBTU/hour.
3. Mobile source strategy, such as new engine standards for on-highway and off-highway vehicles and equipment, and a single consistent environmentally-sensitive formulated fuel.
 4. Area source strategy, such as new federal standards for consumer products and architectural, industrial and maintenance coatings as originally promised by EPA in 2007

B. State- Led Attainment Planning

The undersigned states recommend the use of a state-led attainment planning process concurrent with developing the transport SIP to address areas of interest that are not expected to attain after implementation of the national/regional control program. The state-led planning effort should involve a key subset of significantly contributing states to develop, adopt, and implement an appropriate attainment strategy. EPA should work with the states to establish criteria for determining which significantly contributing states should be involved in the state-led planning process. Additionally EPA should work with the states to determine the appropriate criteria for each state to satisfy CAA section 110(a)(2)(D). The advantages of this state-led planning effort include:

- A one-size-fits-all federal solution cannot provide the most appropriate and cost-effective solution for each area;
- Attainment planning is more effective and more likely to succeed if it is done on a non-attainment area basis with a key subset of contributing states;
- Additional controls are identified where they are needed; and
- States maintain their responsibility under the Clean Air Act to establish state implementation plans.

Further recommendations on this issue will be provided in separate letters by LADCO and OTC.

The comprehensive framework outlined above represents the culmination of our collaborative work over the past six months. We look forward to working with you further as EPA develops its CAIR replacement rule.

Sincerely,

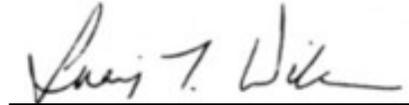

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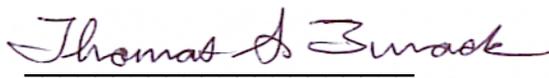

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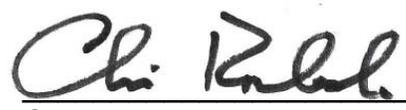

Massachusetts

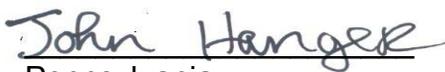

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Vermont



Virginia



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LAKE MICHIGAN AIR DIRECTORS CONSORTIUM

9501 W. Devon Avenue, Suite 701
Rosemont, IL 60018
Phone: 847-720-7880
Fax: 847-720-7887

September 10, 2009

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW, Mail Code 1101A
Washington, DC 20460

Dear Administrator Jackson:

On September 2, 2009, the five LADCO States, along with 12 other States in the eastern half of the U.S., sent recommendations to the Environmental Protection Agency (EPA) as it develops a replacement rule for the Clean Air Interstate Rule, in light of the December 23, 2008, remand by the U.S. Court of Appeals for the D.C. Circuit.

The recommendations follow through on the commitment we made in the March 9, 2009, Framework Document to work together to address the transport requirements of Section 110(a)(2)(D) of the Clean Air Act (CAA), and to attain the ozone and PM_{2.5} National Ambient Air Quality Standards (NAAQS). Please understand that in preparing these recommendations our fundamental air quality objective is to achieve attainment and ensure maintenance of the NAAQS as expeditiously as practicable.

Consistent with the September 2, 2009, joint letter, we wish to provide further recommendations on two issues: the EGU point source strategy (in the national/regional control program), and the state-led attainment planning process. Our specific recommendations are provided below.

LADCO Recommendation 1

A. National/Regional Control Program

1. EGU point source strategy (applicable to units \geq 25 MW)

Regional Emissions Cap: We recommend that EPA establish regional emissions caps (as referenced in the September 2, 2009, joint letter) effective by 2017. We believe that regional emissions caps for any earlier year (e.g., 2015) should not be established, either in addition to or in lieu of a 2017 cap. We conducted a state-by-state analysis of what level of EGU control for NO_x and SO₂ is achievable over the next several years. A fundamental assumption in our analysis is a July 2012 start date for the planning, engineering, and construction of any new NO_x and SO₂ controls. This date reflects a January 2011 promulgation date for a CAIR replacement rule and another 18 months for adoption of state rules. Four "layers" of control were considered: (1) all NO_x and SO₂ controls to comply with the original CAIR Phase I program; (2) optimization of existing NO_x and SO₂ controls by 2014; (3) application of low capital cost NO_x controls (e.g., combustion modifications) by 2015; and (4) installation of new NO_x and SO₂ controls (e.g., SCRs for NO_x and FGDs for SO₂) by 2017. We believe that the first three measures identified above are all that can be done by 2015.

Performance Standards: We understand that EPA is considering a hybrid approach in its CAIR replacement rule involving regional emissions trading and unit-specific performance standards (cite: July 9, 2009, testimony by Regina McCarthy before the Subcommittee on Clean Air and Nuclear Safety, Committee on Environment and Public Works, U.S. Senate). As discussed in the September 2, 2009, joint letter, we strongly support and encourage EPA to include regional emissions trading to the fullest extent allowed under the Clean Air Act.

We believe, however, that unit-specific performance standards go beyond the requirements of section 110 and the scope of a CAIR replacement rule; inhibit trading; and that performance standards with a near-term compliance timeframe, such as 2017, are not practical for all EGUs. Although we firmly believe that it is not appropriate to include performance standards in a CAIR replacement rule, if EPA decides to consider including performance standards, then EPA should work with the states to take into account the basis and timing of the requirements identified in the September 2, 2009, joint letter, cost effectiveness, site specific factors (such as space limitations) and the pollution control equipment already in place on the existing fleet of EGUs. Specifically, on this last point, we believe that EPA should not require replacement or repowering of units or control systems that are sound technology and operating at a reasonable effectiveness.

LADCO Recommendation 2

B. State- Led Attainment Planning

We recommend the use of a state-led attainment planning process concurrent with developing the transport SIP to address areas of interest that are not expected to attain after implementation of the national/regional control program. The advantages of this state-led planning effort include:

- A one-size-fits-all federal solution cannot provide the most appropriate and cost-effective solution for each area;
- Attainment planning is more effective and more likely to succeed if it is done on a non-attainment area basis with a limited number of states;
- Additional controls are identified where they are needed; and
- States maintain their responsibility under the Clean Air Act to establish state implementation plans.

A major contributing state (i.e., a state which contributes at least 4% to a downwind area of interest that is not expected to attain after implementation of the national/regional program) must also either:

1. In conjunction with other major contributing states, develop, adopt, and implement an appropriate attainment strategy for the area of interest, as follows:
 - a. An upwind state's responsibility for achieving air quality benefits in a downwind area should be commensurate with the magnitude of the upwind state's contribution to the downwind air quality problem.
 - b. To facilitate flexibility in developing control programs and reduce control costs, state planning efforts should accommodate interstate emissions trading to the fullest extent allowed by the Clean Air Act.
 - c. Photochemical modeling, performed in accordance with EPA modeling guidance, should be conducted to determine the amount of emission reduction needed to provide

for attainment and the relative contributions of the participating states and source sectors, and to assess candidate control measures.

2. In the event that the multi-state planning effort is unsuccessful, then each 4% state may still be able to satisfy its section 110(a)(2)(D) obligation if it can demonstrate to EPA that it has emission reductions measures for significantly contributing source categories that are commensurate with a Reasonably Available Control Measure analysis for the affected area. These measures should be determined by first identifying key pollutants and source categories that contribute to the air quality problem, and then identifying and evaluating control measures for the contributing source categories.

Enclosed please find supporting materials for these recommendations.

If you wish clarification of these comments, then please contact Michael Koerber, Lake Michigan Air Directors Consortium.

Sincerely,



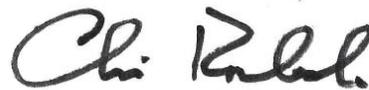
Douglas P. Scott
Director, Illinois Environmental
Protection Agency



Thomas Easterly
Commissioner, Indiana Department
of Environmental Management



Steven E. Chester
Director, Michigan Department of
Environmental Quality



Christopher Korleski
Director, Ohio Environmental Protection
Agency



Matthew J. Frank
Secretary, Wisconsin Department of
Natural Resources

Enclosure

- c: Regina McCarthy, Assistant Administrator, Office of Air and Radiation, U.S. EPA
Bharat Mathur, Acting Regional Administrator, U.S. EPA, Region V
Cheryl Newton, Director, Air and Radiation Division, U.S. EPA, Region V



September 10, 2009

Connecticut

Delaware

District of Columbia

Maine

Maryland

Massachusetts

New Hampshire

New Jersey

New York

Pennsylvania

Rhode Island

Vermont

Virginia

Anna Garcia
Executive Director

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

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, DC 20460

Dear Administrator Jackson:

On September 2, 2009, 17 states within the Ozone Transport Commission (OTC) and the Lake Michigan Area Directors Consortium (LADCO) submitted a letter to you containing recommendations for the Environmental Protection Agency (EPA) to consider as it develops a replacement rule for the Clean Air Interstate Rule (CAIR replacement). The OTC and LADCO States reached consensus on many critical issues, including the creation of a three-step framework to address the requirement of section 110(a)(2)(D) of the Clean Air Act (CAA). Building on the OTC and LADCO consensus, this letter provides EPA with additional recommendations related to several aspects of the joint OTC-LADCO letter of September 2nd based on OTC's 15 years of experience addressing the scientific phenomenon of air pollutant transport and its impact on public health.

Achieving the ozone and PM_{2.5} National Ambient Air Quality Standards (NAAQS) is a challenge and widespread regional reductions are a very important piece in the solution to this puzzle. The U.S. Court of Appeals for the District of Columbia Circuit found that CAIR failed in at least two important ways: (1) it did not ensure sufficient reductions from each state; and (2) the schedule did not mesh with the attainment deadlines. The additional recommendations OTC is providing are intended to address both issues. By combining regional and state caps, electricity generating unit (EGU) emission reductions will be achieved cost-effectively throughout the region while ensuring that each State's emissions are reduced significantly. To the extent possible, given labor and supply constraints, emissions reductions need to occur three years prior to the attainment deadlines in order to provide the maximum benefit in a timely manner.

OTC recognizes that the attainment deadlines for the 75 ppb ozone NAAQS, or a more stringent ozone NAAQS, will be a function of the yet to be adopted nonattainment classification levels. OTC further suggests that EPA's rules also address a longer time period, including between 2017 and about 2025, to address longer-term air quality improvement needs and the very substantial emission reductions necessary to attain and maintain the air quality standards.

OTC appreciates the efforts put forth by EPA to work with all interested stakeholders in developing a CAIR replacement rule based on sound science. OTC further acknowledges that air pollutant transport within the OTC region is a significant issue that EPA should also address. The CAIR replacement rule should also recognize that our planning processes continue to evolve in the face of ever-tightening standards and newly uncovered air quality concerns, such as the impact of peaking unit emissions on high electricity demand days (HEDD). As such, OTC recommends that EPA propose measures to address HEDD emissions in the CAIR replacement rule.

Our recommendations are provided below in three parts. OTC considers these recommendations feasible, practicable and operable within the framework of the existing Clean Air Act, all of which facilitate a rapid adoption process as directed by the D.C. Circuit Court of Appeals in remanding CAIR. The CAIR replacement rule offers an opportunity for transformational change over incremental improvement. Providing regulatory certainty to America's electric generating sector promotes transformational change through business decisions that support our air quality goals. A summary of the technical analyses conducted by the OTC States and provided as support documentation for the recommendations provided in this letter and the September 2, 2009 letter is attached to support these recommendations.

A. Achievable EGU Limitations

The OTC States recommend that EPA consider a comprehensive, multi-layered, hybrid approach for obtaining further reductions from EGUs. This hybrid approach combines state and regional caps with phased-in performance standards to cost-effectively reduce nitrogen oxide (NO_x) and sulfur dioxide (SO₂) emissions. The components of this strategy (enforceable conditions, state-by-state reductions, regional trading caps/program and phased performance standards), should coordinate with each other and other EGU control initiatives such as federal MACT standards and greenhouse gas reduction programs.

A national strategy for EGUs should be implemented in phases. The first phase should combine federally enforceable NO_x and SO₂ reductions from each state with a regional trading program. A later phase should include performance standards to achieve continuing reductions from the EGU sector over the course of the regulatory time frame for implementation of the 2008 ozone and 2006 PM_{2.5} NAAQS.

Timing is essential to meet attainment obligations. Three years of data are needed to demonstrate attainment; therefore reductions are needed three years prior to the attainment deadline. While we recognize that full implementation of all controls may not be achieved in that time frame, it is essential that enforceable mechanisms be provided to lock in controls that are achievable. The OTC-LADCO submission reflects the participating states' agreement on state-specific caps that would be applicable no later than 2017. Years prior to 2017 may be critical for many states to demonstrate attainment with the applicable NAAQS. The OTC States seek to work with EPA to develop mechanisms for achieving interim reductions in the 2012-16 time period, including the possibility of interim state-specific caps in addition to a regional cap-and-trade program.

Since CAIR was not sufficient for attaining and maintaining the 1997 ozone NAAQS, EPA will need to make the limits in the CAIR replacement rule stricter to enable compliance with the recently revised ozone and PM NAAQS and any tighter standards that EPA enacts after reconsideration of those standards. The state caps are also necessary to ensure that each State contributes fully to the needed reductions.

Specifically, the OTC States propose that EPA include phased state-by-state reductions, complementary regional emission trading caps as early as possible (but no later than 2014), and performance standards as follows:

1. State-by-State Reductions

The September 2, 2009 letter recommends the implementation of state caps by no later than 2017 that reflect the emission rates that would be achieved through installation of SCR and FGD controls on all coal-fired EGUs of 100 MW or larger in all significantly contributing states. In addition, the participating states recommend in that letter a number of interim measures including operation and optimization of all controls currently in place or being installed to meet other requirements, and installation and operation of all feasible, low capital cost NOx controls such as selective non-catalytic reduction (SNCR) and low NOx burners (LNB) not currently installed or in use on existing EGUs on a unit basis by 2015.

The OTC States recommend that EPA analyze and determine the state-by-state reductions needed prior to 2017 in order to address CAA Section 110(a)(2)(D) requirements to address interstate transport from EGUs within the NAAQS timeframe. The OTC States see interim state-by-state reductions prior to 2017 as a key part of addressing the Court of Appeals concerns over what is needed to satisfy the requirements of CAA Section 110(a)(2)(D).

2. Regional Trading Programs for NOx and SO₂

As explained in the September 2, 2009 submission, the second key element of the OTC-LADCO agreed framework for a CAIR replacement rule is the implementation of regional trading programs for both NOx and SO₂, to complement the state-by-state caps described above. The OTC States recommend that EPA consider the following in developing the regional caps:

- The new regional caps should be implemented as early as possible and set at a level that will drive deeper regional NOx and SO₂ reductions than the regional reductions that would result from the implementation of the state-by-state caps by themselves. This pairing of state-by-state caps with an aggressive regional trading program will guarantee specific reductions in each state while also using market forces to further reduce regional emissions at lowest cost.
- OTC's analysis (attached) and the analysis that EPA recently prepared for Senator Carper show that stringent regional trading caps for NOx and SO₂, implemented as early as possible (but no later than 2014), would provide significant public health benefits that substantially outweigh the costs.
- Banking and inter-state trading would continue to be allowed in the regional trading program.

- To be creditable under Section 110(a)(2)(D), controls installed in response to the regional trading program should be made federally enforceable through an appropriate mechanism.

3. Performance Standards

We understand that EPA is also considering a hybrid approach in its CAIR replacement rule involving regional emissions trading and unit-specific performance standards (cite: July 9, 2009, testimony by R. McCarthy before the Subcommittee on Clean Air and Nuclear Safety, Committee on Environment and Public Works, U.S. Senate).

The OTC States request that EPA work with the states to develop and phase in unit-specific performance standards that owners of fossil fuel-fired units should comply with between 2017 and 2025, or earlier if EPA's technical analysis demonstrates that an earlier date is reasonable. Performance standards should either be output-based or transition to output-based standards to reward efficiency. Such performance standards will give regulatory certainty to EGU owners and encourage transformational change in the energy market. In developing these performance standards:

- EPA should consider fuels, types and sizes of EGUs, the timing of other requirements included in this and the September 2, 2009 letter, cost-effectiveness and the pollution control equipment already in place on the existing fleet of EGUs.
- EPA should phase-in the performance standards to maximize efficiency and minimize costs to affected sources. For example:
 - The performance standards for coal-fired units greater than 100 MW should be coordinated with the state-by-state caps that are recommended for no later than 2017.
 - The performance standards for units subject to the upcoming federal MACT requirements should be coordinated with the MACT requirements.
- In later phases (2020 to 2025), the performance standards should be coordinated with greenhouse gas reduction programs and other energy efficiency initiatives and be output-based.
- OTC's analysis (attached) shows that performance standards on larger fossil-fuel fired EGUs (based on a 30-day rolling average) are feasible and should be implemented on an aggressive timeframe (as early as 2017).
- EPA should consider including incentives (e.g., alternative compliance schedules not to exceed three years), to promote the repowering or replacement of existing units.
- After the adoption and implementation of performance standards, EPA should evaluate the feasibility of eliminating the state-by-state caps.

B. State-led Planning Process

The OTC States recommend that the state-led planning effort include all significantly contributing states (i.e., 1% of the NAAQS or greater impact) unless each state in the affected nonattainment area chooses to reduce the number of states involved.

- The OTC believes that this is the most appropriate way to identify those states that are required to participate in the state-led planning process as model performance (related to long-range transport) varies from one nonattainment area to another and the meteorology that affects some nonattainment areas is very complex.
- The states in the nonattainment area would use monitoring data, modeling and other information on ozone transport, meteorology, emissions, control programs, geography and chemistry to decide which significantly contributing states, if any, should be excused from the state-led planning process.
- Two scenarios are outlined below:
 - If the states in a nonattainment area have technical data that show that the state-led planning process for that area should be limited to just three or four states, that would be appropriate.
 - If the states in a nonattainment area are subject to highly complex transport patterns, it is most likely necessary to include all significantly contributing states in the state-led planning process.
- The OTC believes that the most appropriate way to address transport is through a suite of aggressive national programs to reduce NO_x, VOC and SO₂ emissions from EGUs, other stationary sources, area sources and off-road and on-road mobile sources and that the role of the state-led planning process should be secondary.
- The OTC continues to have serious concerns over model performance related to long-range, aloft transport. It is critical for EPA to establish and implement performance criteria related to aloft transport to ensure that the process for identifying significantly contributing states is credible.
- As indicated in the September 2, 2009 joint letter, additional controls may be required where needed.

C. Eliminating Significant Contribution

The OTC States recommend that under the state-led attainment planning process, both the upwind states and EPA remain accountable to address contributions to downwind areas' nonattainment of both the ozone and PM_{2.5} NAAQS by the relevant attainment dates, without designing any new "off-ramp" that avoids direct and timely action to reduce emissions that are in violation of CAA Section 110(a)(2)(D).

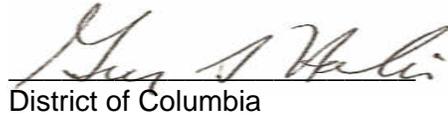
In addition to a program of controls for EGUs, OTC also urges EPA to address interstate transport through the development and implementation of national rules in

2012 or as early as feasible for additional controls on non-EGU sources, as supported in prior statements of the OTC to EPA. (See, e.g., Statement on the Need for National Rulemaking and Implementation of Ozone Control Measures, November 14, 2007).

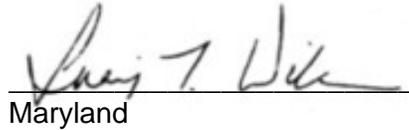
In acting on these recommendations, EPA can use the CAIR replacement rule to provide regulatory certainty to the EGU sector, which will enable business decisions that will move us many steps toward improved air quality and a more efficient electricity generating sector. We look forward to talking with you further about our recommendations for the CAIR replacement rule, and working with your staff as you expeditiously develop this important air quality and public health program.

Sincerely,

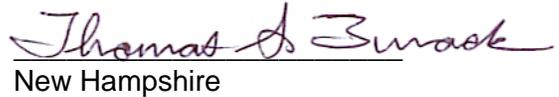

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