

COMMENTS OF MIDWEST OZONE GROUP
JUNE 3, 2016
OTC ANNUAL MEETING
PHILADELPHIA, PA
Skipp Kropp

Local Sources

Midwest Ozone Group (MOG) members operate approximately 90,000 MW of fossil-fuel fired electric generating capacity. MOG has on-going concerns about the technical and legal bases and justifications for continued calls for reductions of interstate transport of NO_x related to ozone nonattainment in the Northeast Ozone Transport Region (OTR).

Ozone nonattainment in the OTR is clearly the result of complex dynamics, including a component of NO_x transported over distances, but recent source apportionment modeling has increasingly shown that the vast majority of sources contributing to the remaining nonattaining monitors in the OTR, primarily in Connecticut along the I-95 corridor, are, in reality, local sources. MOG commends the Commonwealth of Pennsylvania for its very timely development of its new RACT program that will result in significant NO_x and VOC reductions from affected sources in that state and that significantly improve air quality in downwind areas.

MOG believes that attention must now turn to Connecticut and other nonattainment areas in the Northeast that are under a legal obligation to address their contribution to their nonattainment status by revising their own air quality programs, including RACT requirements, by no later than the start of the 2017 ozone season. As Connecticut DEEP's hearing examiner stated in an April 6, 2016, response to comment report on Connecticut's proposed RACT rule, tighter NO_x controls on municipal waste combustors will "help Connecticut attain and maintain the ozone NAAQS." In addition, Connecticut DEEP's letter of July 14, 2014, stated that "[t]o reach attainment in the NY-NJ-CT nonattainment area, HEDD emissions need to be addressed in all three state portions of the area." In that same 2014 letter, Connecticut DEEP went on to state: "In sum, to address Connecticut's ozone nonattainment, and Connecticut's good neighbor obligations to downwind states, peak day emissions must be reduced. Thus, "beyond RACT" measures may be warranted for HEDD units on HEDD to meet the state obligations of attainment of the ozone NAAQS as expeditiously as possible."

MOG believes that nonattainment areas in the Northeast must implement legally mandated local controls before additional controls are imposed on upwind sources. MOG urges the OTC to reconstitute its HEDD Workgroup in order that the impact of HEDD emissions – and those from distributed generation – on local and downwind air quality can be assessed, and new controls established where appropriate. MOG also urges that the OTC assess and estimate the NO_x reductions that will result from legally mandated control such as the Connecticut RACT requirements and incorporate those reductions into any future attainment modeling efforts. Without carefully evaluating these local, and in some cases virtually uncontrolled sources first, there is a very real risk that imposing emission reductions on upwind sources would result in the over-control of other sources that is prohibited by the DC Circuit decision in the CSAPR litigation, EPA v. EME Homer City Generation, 134 S. Ct. 1584, 1606 (April 29, 2014), in which the court stated that "EPA cannot require a State to reduce its output of pollution by more than is necessary to achieve attainment in every downwind State..." Id. at 1608.