TESTIMONY OF CHRISTOPHER RECCHIA
ON BEHALF OF THE
OZONE TRANSPORT COMMISSION
BEFORE THE U.S. ENVIRONMENTAL PROTECTION AGENCY
ON ITS PROPOSED INTERSTATE AIR QUALITY RULE AND MERCURY RULE
69 FR 4566

FEBRUARY 25, 2004

Good morning, and thank you for the opportunity to testify on the U.S. Environmental Protection Agency's (EPA's) January 30, 2004 proposed Interstate Air Quality Rule to "Reduce Interstate Transport of Fine Particulate Matter and Ozone" (the IAQR), and "Proposed National Emission Standards for Hazardous Air Pollutants: and in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources. . . " (the Mercury Rule).

My name is Christopher Recchia 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 reduction strategies in the Northeast and Mid-Atlantic region of the U.S and to advise EPA on air transport issues. OTC represents 12 states and the District of Columbia – roughly ¼ of the population of the U.S.

The Problem

As you likely know, OTC works actively on a variety of air issues related to ozone attainment. For the past decade, OTC has worked to coordinate the efforts of states to reduce the pollutant precursors to ground-level ozone, seek reductions from upwind areas contributing to unhealthful air quality in our region, and to advise EPA on constructive improvements to our air quality programs.

There is potentially no more important rule for the OTC than the one you are dealing with today. The IAQR could be the most important advance to address interstate transport of pollutants to date, and for bringing this issue forward, we are appreciative of EPA's efforts. I hope we can agree that any such effort should enable states to achieve the public health standards EPA has promulgated, and to do so on time.

Unfortunately, the NOx and SO2 reductions and timeline proposed in the IAQR are not deep enough to enable states to reach attainment, nor are they soon enough to meet the required deadlines. The IAQR reductions do not resolve regional transport concerns for these pollutants. Over the past 8 years, OTC states have succeeded in reducing our own NOx emissions by approximately 70%, while the rest of the country has reduced its emissions by only about 10%. Yet in 2010, our attainment deadline for most of the ozone transport region (OTR), we will have approximately 106 counties not meeting the 8-hour ozone standard, 47 of which are beyond marginal non-attainment. The IAQR, like the Clear Skies Act before it, would improve this situation by only 3 counties. EPA's and OTC's modeling alike show that, even with draconian measures applied locally, large areas will still not meet the health standards for air quality.

Indeed, our modeling (Exhibit 1) shows that if you eliminate all emissions originating in the OTR, you would still have 145 of 146 monitors influenced by a significant increment (>25%) by upwind air contributions. Seven monitors would continue to show a violation of the standard due exclusively to transported pollution.

Multi-pollutant regulation that falls short of the reductions needed to address the transport of pollutants by the attainment dates specified in the Clean Air Act (CAA) would be a disservice to the sector being regulated – committing us all to future uncertainty and repeated revisiting of the program objectives. The unnecessarily mild reduction targets in the present rule also continue the health and economic inequities that presently exist as a result of OTR states doing more, while others do less.

As a result, the OTR will continue to incur millions of respiratory-related illness days each year, tens of thousands of additional hospital visits - 50,000 emergency room visits in the northeast alone - and all the costs and public health impacts associated with exposing over 27 million children, 2 million with asthma, to unhealthy air quality due to ozone. Failure to meet the particulates standard on time means tens of thousands of additional premature deaths each year.

You will no doubt hear a great deal about your mercury proposed rule today, and although OTC is concentrating its comments on the IAQR today, I will point out that mercury is a powerful neurotoxin for which there is no known de-minimis safe level. As with the NOx and SO2, the mercury caps proposed – be they achieved under a section 112 MACT program or under section 111 as suggested today - are very weak and fail to address the needs of 45 states that have fish consumption advisories due to the bioaccumulation of this heavy metal into fish tissue,

We believe the mercury rule significantly underestimates the level of reductions we could expect if the NOx and SO2 emissions were appropriately controlled, and so OTC continues to stress the need to adequately deal with the needed reductions of these pollutants in the IAQR.

The Opportunity

The OTC supports a multi-pollutant approach for the electrical generating (EGU) sector as the most cost-effective means of facilitating emission reductions of ozone and its precursors. As mentioned, OTC states have in large measure achieved what we are asking you to accomplish with this rule. OTC has successfully implemented a cap and trade program that has served as the successful model for the proposals before you, and we support such programs for the non-hazardous pollutants such as NOx and SO2. While the IAQR is not yet what we need in terms of reductions, the proposal is an appropriate vehicle for finally addressing the transport of pollutants from this sector, and are very encouraged that EPA has chosen to move forward with a rule. The Mid-Atlantic and Northeast states have spent the last several months crafting and adopting a position to clearly define what we need, in terms of reductions of nitrogen oxides in a multiple pollutant context, and when we need it. We believe the adopted OTC position (Exhibit 2) represents a fiscally and technically sound effort to protect public health, in a cost-effective manner and on a realistic, achievable, timetable. We urge EPA to modify its IAQR to incorporate the OTC platform.

Our Proposal

OTC formally adopted a Multi-Pollutant position on January 27, 2004 – adding specific emission reduction targets and timeframes to our Resolution signed in September of 2003 calling for a multi-pollutant approach as the best mechanism for achieving the NOx reductions needed in the OTR. I will not take the time to discuss the position in detail, but will only summarize it here.

We suggest NOx and SO2 emissions from power plants be capped at 1.87 million and 3.0 million tons respectively by 2008, and 1.28 million and 2.0 million tons by 2012. In addition, OTC believes initial mercury control levels should not exceed 15 tons, with an ultimate performance requirement that achieves a final mercury reduction to approximately 5 tons per year by 2015, a 90% reduction from current emissions. We support expanding this proposal to the industrial boiler sector, particularly for NOx, and to run this program without sacrificing state's rights to regulate these sources. The Acid Rain program (the successful model benchmark often cited

by EPA) achieved its results without limiting or modifying the section 126 petition powers of the states; we need not do so here.

While OTC is demonstrably supportive of market mechanisms to achieve emission reductions, we are opposed to the use of a regional cap and trade program to achieve mercury reductions. Mercury, a known neurotoxin, should not be traded between facilities - ultimately all plants should achieve mercury reductions.

What we are proposing is a multi-pollutant program that can help us achieve attainment of the health-based ozone standard as expeditiously as possible. While no amount of reductions from one sector alone will bring all areas in the OTR into attainment, the significant contributions from the EGU sector both within and upwind of the OTR must be recognized and dealt with sufficiently to allow states to do their part in seeking additional reductions to ultimately achieve attainment.

I want to emphasize that we do not expect this or any other single rulemaking to bring the entire region into attainment. We do, however, expect any multi-pollutant program seeking reductions from power plants to adequately address that sector and be a constructive part of an overall attainment strategy for the Northeast and Mid-Atlantic states. The transport problem is not limited to the amount of emissions that can be reduced with highly cost-effective controls, rather it is the amount of emissions that must be reduced to eliminate the contribution to downwind non-attainment of the health based standards as soon as practicable.

Technical and Economic Feasibility

Ozone Reductions

At the core of OTC's proposal is the belief that we must not relax the ozone standard (not proposed in EPA's rule) or let the attainment dates of the Clean Air Act slip (implicit in the EPA proposal). OTC believes a cap of 1.28 million tons in 2012, representing an effective emission rate of approximately 0.11 lbs/MMBTU, is technically and economically achievable; providing plenty of margin between what is presently required and best achievable technology to successfully run a cap and trade program for this pollutant. While not achieving attainment in and of itself, if applied to both EGU and industrial boiler sectors and combined with significant further reductions in mobile and area sector emissions, these caps enable attainment in all but the most difficult counties.

SO2 Reductions

Industry and regulators agree that controlling NOx and SO2 emissions at the same time makes the most sense in terms of capital investment, regulatory certainty, and technical practicality. We also have a special role in reducing SO2 emissions to address the remaining acid rain problem in the Northeast and to meet new federal requirements to improve visibility in certain wilderness areas.

We know that we will need to reduce SO2 emissions to address both of these significant environmental problems. Depending on the extent and treatment of banked allowances, practical emission reductions may be significantly delayed. We need to seek greater emission reductions sooner, because we need real reductions within Phase I of the proposal to meet our commitment to environmental obligations under the Clean Air Act.

Modification of the banked allowance value, flow control and/or expiration of the use of Title IV banked allowances may prove necessary in order to use up the significant accumulated allowance bank and gain real additional reductions.

Mercury Benefit of Stronger SO2 and NOx Controls

Because it is necessary and desirable to achieve the mercury reductions associated with controlling NOx and SO2 emissions, we are proposing emission reduction targets that are driven by our ozone attainment strategy in a way that does not exacerbate local emissions of this toxic heavy metal.

Phase I (2008) mercury reductions are generally considered to be achievable through the application of SO2, NOx and particulate matter (PM) control, acknowledging additional reductions being required by several OTC state multi-pollutant programs.

Phase II (2012) mercury reductions are achievable through further application of SO2, NOx and PM controls needed to achieve the respective caps and standards and application of some additional mercury-specific control measures.

Phase III (2015) mercury reductions are to be set by a performance standard to be identified no later than 2012, and are generally expected to require additional mercury-specific control technology applications beyond those required or achieved in earlier years.

General Implementation, Costs and Benefits

A perceived limitation on labor availability is cited by EPA as a major reason why the boiler modifications and metal fabrications cannot be achieved in the timeframes OTC suggests, but we disagree that EPA is appropriately considering the type and expertise of the labor needed for this work, as well as the actual phase-in and mix of installations that would occur in light of banked allowances. We believe that EPA analysis for this proposal relies too heavily on EGU industry's underestimation on the availability of labor to install control equipment. In discussions with control equipment representatives and those who would install the equipment, we believe that given a certain timeframe – even if earlier – there would be sufficient capital and labor available to adequately control emissions to meet our proposed targets in the 2008 timeframe toward 2010 attainment dates. We will be submitting additional information on this as part of out formal written comments.

Overall, we expect the costs of OTC's program to be achievable for less than $2,000 per ton each for the NOx and SO2 reductions through 2020, the total cost to be on the order of about $7.6 Billion in 2010 and $11.1 Billion in 2020, with a monetized benefit of about $80 Billion and $140 Billion in those years respectively. The cost for compliance will be fractions of a cent per KWh, and a reasonable percentage of the total system operating costs for EGU units (approximately 10%). Compared to the IAQR, we expect the program to cost less than 4% more, for a 44-47% reduction from IAQR NOx and SO2 emissions.

Conclusion

OTC is committed to seeing the transport issue addressed, and welcome the role the IAQR can play in that effort. We must have meaningful reductions in NOx and SO2 in this EGU sector if they are to gain the certainty they seek, and we are to achieve the health based standards the Clean Air Act requires. To a large extent, mercury reductions can follow from the more significant reductions proposed for NOx and SO2, but in the end, we believe all would be better served by a performance based standard for mercury.

The OTC proposal enables us to get where we need to be for NOx and SO2, cost-effectively and on schedule. We will be submitting formal comments by the March 30th deadline, along with modeling and other technical information that supports our contention that the rest of the country, or at least the IAQR region, can and should do what the OTC member states are doing.

Thank you again for the opportunity to testify. As always, we stand ready to work with EPA on any rulemaking designed to advance the principles noted herein.

Respectfully Submitted,

Christopher Recchia
Executive Director