

**TESTIMONY OF CHRISTOPHER RECCHIA
ON BEHALF OF THE OZONE TRANSPORT COMMISSION
BEFORE THE U.S. ENVIRONMENTAL PROTECTION AGENCY
ON ITS SUPPLEMENTAL PROPOSAL FOR THE RULE TO REDUCE INTERSTATE
TRANSPORT OF FINE PARTICULATE MATTER AND OZONE
(not yet published)**

JUNE 3, 2004

Good morning, and thank you for the opportunity to testify on the U.S. Environmental Protection Agency's (EPA's) Supplemental Proposal For The Rule To Reduce Interstate Transport Of Fine Particulate Matter And Ozone.

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.

It is time for a comprehensive, regional approach addressing emissions from the power sector. The IAQR is the most significant advance to addressing interstate transport of pollutants to date and for that we are appreciative of EPA's efforts. We believe that with incorporation of greater regional needs, this proposal can be a significant component of an attainment strategy for the Northeast and Mid-Atlantic states.

We do, however, have significant, overarching concerns that I would like to express today. I will also highlight several areas regarding new provisions in this proposal that we intend to address in greater detail in our written comments.

There is no way to discuss this proposal without first raising major issues concerning the process of this rulemaking. While EPA may be meeting legal obligations by the timing and format of its regulatory releases, it does not appear to be making an attempt for consideration or incorporation of stakeholders' comments. The last round of comments, we provided was for a lengthy narrative preamble issued as a proposed "rule."

Today's comments are for a supplemental notice that has yet to be published in the Federal Register. We are also waiting to see several technical support documents, to be posted on the CAIR web site, that are referred to throughout the SNPR. Finally, this supplemental proposal indicates that comments will be incorporated in the final rulemaking. We believe this is less than ideal and circumvents the spirit of requesting public comment.

We have worked closely with EPA to define the emission reductions, supported by detailed analysis, needed from this sector as part of an overall attainment strategy for our region. As part of this effort, we have provided extensive comment and analysis on this rulemaking so that our needs may be incorporated into this regional program. To date, we have not received a response to the questions raised in our formal comments, and the approach of this rulemaking does not allow for the consideration of our or other stakeholders' comments as part of the final rule.

CAIR as Part of an Attainment Strategy

Our primary concern is that the reductions proposed do not provide the level of NO_x and SO₂ reductions needed from this sector in a timeframe needed to help states achieve the health-based, federally mandated National Ambient Air Quality Standards. 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 NO_x emissions from power plants and large

industrial boilers by approximately 70%, while the rest of the country has reduced its emissions by only about 10%.

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.

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.

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 NO_x 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 NO_x 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.

Since then, we have provided EPA with more extensive analysis - including Integrated Planning (IPM) modeling demonstrating the feasibility of our approach. We strongly encourage EPA to evaluate this analysis and incorporate these provisions into their proposed cap and trade program.

In our comments, we have also requested that EPA share its analysis demonstrating that the program would achieve several of its most important functions including:

1. that it addresses transport; and
2. that it would achieve at least the levels of ozone season NO_x reductions provided for in the NO_x SIP Call.

Part of our attainment strategy is the need for these reductions sooner. While CAIR and similar legislative proposals such as the Clear Skies Act achieve significant reductions as part of a second phase - these reductions are not realized until almost 2018. These level of reductions are already being required by several states' multi-pollutant bills. Our modeling demonstrates that these level of reductions are achievable on a regional basis and are cost effective. We strongly support a more aggressive timetable for achieving reductions toward meeting the NAAQS versus the alternative of delaying attainment deadlines suggested in this supplemental proposal.

Specific Details in this Proposal

While we intend to provide more detailed comments as part of our written submittal, there are several major provisions in the supplemental proposal I would like to address today.

Regarding the application of "significant contribution" as part of the "highly cost-effective" test, we do not feel that this is an appropriate application of this provision of the Clean Air Act. We propose that rather than simply using section 110(a)(2)(d) as a SIP Call provision, that significant contribution be considered proactively during SIP submittal. We acknowledge that this would require more significant analysis up-front, however, this would create a process demonstrating that all areas have addressed transport of emissions contributing to downwind nonattainment.

Further, this application of “highly cost-effective” does not address the full scope of cost effectiveness of reductions. The relative cost of reductions in the originating upwind area must be weighed against the cost of local reductions attempting to offset reductions in a downwind nonattainment area. For example, an upwind area’s contribution should be considered significant if their cost for reducing ozone 1 ppb in a downwind area is \$1,000 per ton versus \$20,000 per ton for the downwind area to achieve the same level of reduction.

Regarding the proposed retirement ratio, we feel that the application of a discount penalty on top of the retirement ratio is appropriate - and consistent with existing programs such as the NOx SIP Call. However, these discounts do not appear to go at the heart of the issue concerning the SO₂ allowance bank which is that the significant amount of banked allowances appears to discourage early installation of control technology and delay meaningful reductions to the second phase of the program.

We recommend a mechanism, such as progressive flow control, that reduces the number of banked allowances for excessive emissions across the board. Our analysis appears to demonstrate that progressive flow control with a 2:1 discount ratio (and 10% trigger) for excessive emissions encourage greater reduction, at a more aggressive timeframe.

Regarding the options for incorporating BART into the CAIR budgets, we strongly feel that SO₂ and NOx reductions under a cap and trade program are a necessary addition to, not a replacement of, installation of retrofit technology. Addressing the contribution of visibility degradation in Class I areas by BART eligible sources will no doubt take extensive reductions beyond those that may be achieved by BART alone. However, we believe that BART should be the benchmark from which these reductions are achieved.

Conclusion

OTC is committed to seeing the transport issue addressed, and welcome the role the CAIR can play in that effort. We must have meaningful reductions in NO_x 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.

The OTC proposal enables us to get where we need to be for NO_x and SO₂, cost-effectively and on schedule. We will be submitting formal comments 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