

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

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EXECUTIVE DIRECTOR

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To Whom It May Concern:

The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) are pleased to submit these comments on the U.S. Environmental Protection Agency's (EPA's) Proposed Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule or IAQR), as published in the *Federal Register* on January 30, 2004 (69 *Federal Register* 4566). We are disappointed that EPA did not honor our request to provide an overall comment period that encompassed both the January 30th proposal and the forthcoming Supplemental Notice of Proposed Rulemaking (SNPR). We reiterate our view that it makes more sense for EPA to provide a comment period that allows commenters to consider and comment on the January 30th proposal and the SNPR as a complete package. We present these views in order to file comments by the March 30th deadline, but we reserve the right to modify or expand upon them in our comments on the SNPR.

STAPPA and ALAPCO are pleased that EPA has taken a first step toward addressing interstate transport of air pollution in order to assist states and local jurisdictions in attaining and maintaining the new 8-hour ozone and fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS). As EPA is aware, states and localities throughout the country face a daunting challenge in developing strategies to clean up their air to achieve these health-based standards. According to EPA, as many as 175 metropolitan areas currently violate the 8-hour ozone and/or PM_{2.5} standards, exposing almost 160 million people to unhealthful levels of air pollution. What is becoming increasingly clear is that it will take a significant regional effort to ameliorate the health and environmental impacts from sources of pollution contributing to these problems. A multi-state and multi-pollutant approach also comports with the recommendations in a recent study by the National Academies of Science, which notes that ozone, PM_{2.5} and regional haze "share common precursor emissions and common pathways for the generation of these pollutants and are all to greater or lesser extents affected by long-range transport. For these

reasons, it is critically important that pollution control strategies targeted for mitigation of ozone, PM_{2.5}, and regional haze be developed in tandem and on a multistate basis.”¹

While EPA has taken an important first step to address transport, we are still concerned that the agency has not done enough. We believe the compliance deadlines are too long, the emissions caps are too weak, and an insufficient number of sources are covered. Additionally, we are troubled that EPA is intending to weaken an important regulatory tool under Section 126 of the Clean Air Act for addressing interstate transport. These concerns, which we raised in our testimony at EPA’s public hearings, and additional concerns are detailed further below.

I. EPA Should Promulgate a Comprehensive National Program with More Expeditious Deadlines and Stringent Caps in Order to Fully Address Transport

A. EPA Should Promulgate a National Rule With More Expeditious Deadlines and Stringent Caps

STAPPA and ALAPCO believe that EPA should adopt a national strategy for addressing interstate transport, not a regional one. Air pollution does not respect borders, whether in the eastern U.S. (the region covered by EPA’s proposal) or the western U.S. (which EPA excludes), and a national approach provides a more comprehensive strategy to addressing all sources of transported pollution than a regional one. In 2002, STAPPA and ALAPCO adopted principles in support of a national multi-pollutant strategy for power plants (*Principles for a Multi-Pollutant Strategy for Power Plants*, May 7, 2002). These principles constitute, in the associations’ view, a viable approach upon which a multi-pollutant approach should be based.

STAPPA and ALAPCO recently completed an analysis to illustrate what nationwide emissions caps on electric utilities for nitrogen oxides (NO_x), sulfur dioxide (SO₂) and mercury could result from the application of the associations’ principles. The 2013 caps reflect application of clearly reasonable levels of today’s Best Available Control Technology (BACT). An interim deadline of 2008 tracks more closely with attainment dates for many areas.² The result of this analysis is as follows for NO_x and SO₂:

Results of Analysis of STAPPA/ALAPCO Multi-Pollutant Principles

	NATIONAL BASELINE EMISSION LEVELS 2001 (tons per year)	NATIONAL INTERIM EMISSION CAPS BY 2008 (tons per year)	NATIONAL EMISSION LEVELS BASED ON BEST AVAILABLE CONTROLS BY 2013 (tons per year)
NO _x	4.7 million	1.51 – 1.87 million	0.88 – 1.26 million
SO ₂	10.6 million	3.0 – 4.5 million	1.26 – 1.89 million

¹ National Academies of Science’s Boards on Environmental Study and Toxicology and on Atmospheric Sciences and Climate, *Air Quality Management in the United States*, 229 (2004)

² For ozone, areas classified under subpart one will likely have an April 15, 2009 attainment deadline, which means that the 2008 ozone season must be “clean.” For PM_{2.5}, all areas will likely have a January 2010 attainment year deadline.

Electric generating units (EGUs) are a significant source of air pollution – they emit more than half of the nation’s SO₂ emissions and almost a fifth of the nation’s NO_x emissions, according to EPA’s 2001 inventory. By not proposing caps that reflect the application of BACT, and not proposing deadlines that more closely track with the attainment deadlines for states and localities, EPA is shifting the burden to states and localities to seek emission reductions from sources – such as drycleaners, paint shops or bakeries – in their areas that are likely to be far less cost-effective to control (see discussion below at I.C.).

The problems with EPA’s caps and deadlines are exacerbated by EPA’s proposal that EGUs be permitted to use banked allowances from other programs, such as allowances from the Title IV Acid Rain Program, for compliance with the IAQR. Accordingly, because of banking, utilities will not have to meet their ultimate compliance deadlines until several years after EPA’s 2015 overall deadline.

In addition, EPA should consider the following with respect to a transport rule addressing NO_x and SO₂ emissions:

1. Implementation of the national SO₂ caps shall not result in emission reductions in the West less than those that would be achieved under the emissions milestones for western states promulgated in the regional haze rules; and
2. All regions, states and localities shall retain the authority to adopt and implement their own more stringent emission caps for any pollutant (including, but not limited to, a seasonal NO_x cap).

The complete analysis and the STAPPA/ALAPCO *Multi-Pollutant Principles* are included as an attachment.

EPA indicates in the IAQR that one of the key factors constraining it from specifying earlier deadlines is the availability of boilermaker labor to install air pollution control technology (pp.4616-4617). STAPPA and ALAPCO are aware, however, of a labor analysis conducted by the Institute of Clean Air Companies (ICAC) (the non-profit national association of companies that supply air pollution monitoring and control systems, equipment, and services for stationary sources) that indicates, contrary to EPA’s findings, there is sufficient availability of boilermaker labor to install the pollution controls five years earlier than EPA assumed (2015 levels of control by 2010). (This analysis is attached.)

B. A Transport Rule Should Cover Other Sources In Addition to EGUs

The IAQR fails to include other sources that could easily be covered by a national rule (as evidenced by their inclusion in the regional NO_x SIP Call). EPA projected emissions in 2010 for 30 states and the District of Columbia, estimating that industrial boilers would emit 11 percent of SO₂ emissions and 13 percent of NO_x emissions annually, and that stationary internal combustion engines would emit 12 percent of the NO_x emissions in this area of the country.

EPA indicates that it did not call for emission reductions from industrial boilers because it has “limited information both about SO₂ controls and the integration of NO_x and SO₂ controls.”

(p.4610) However, ICAC submitted information to EPA on the availability of SO₂ controls for industrial boilers and the cost of such controls.³ The memo indicates that dry sorbent injection-type systems could be considered a cost-effective means of controlling SO₂ emissions from industrial boilers. In addition, ICAC notes that in the past, when control requirements have spurred increased demand for control technology, “control technology vendors have been able to provide solutions at reduced costs while simultaneously improving removal efficiencies.” (Id.)

With respect to control technology and costs for NO_x, EPA has a wealth of information developed from implementation of the NO_x SIP Call, which covers large industrial boilers and stationary internal combustion engines (as well as large cement kilns and turbines). Since the geographic range of the IAQR (either as EPA proposes or as we recommend) is greater than the NO_x SIP Call, EPA could simply apply the same cost-effectiveness analysis it used in the NO_x SIP Call to sources outside the NO_x SIP Call area (though we expect that EPA would update this information to include more recent data). We would also recommend that EPA review information on sources in the NO_x SIP Call area to see whether, given the development of technology since the implementation of the NO_x SIP Call, additional controls on these sources would be cost-effective, as EPA found they would be for EGUs in the NO_x SIP Call states. We also indicate below that such an analysis should consider the costs of local controls needed to reach attainment, so that highly cost-effective should be a relative determination.

EPA should not delay issuance of a final rule, however, to include these sources. Based on the briefings we received from EPA in 2003, EPA intended the transport rule to cover these sources, so it should not pose undue problems to modify the IAQR to include these sources. If EPA decides to proceed with a transport rule that only covers EGUs, EPA should consider how it will address questions of equity if and when new sources are added to the IAQR. For example, would new covered sources be given the same opportunity to obtain allowances and similar allocation of allowances as EGUs? To avoid having to address these issues, then, it is best to include all relevant sources up front.

C. A Comprehensive National Program With Expedient Deadlines and Stringent Caps is More Effective than Local Controls, Better for Public Health and is Achievable

A comprehensive national program that covers relevant sources and that contains expedient deadlines and stringent caps is more cost-effective in controlling most SO₂ and NO_x emissions than controls state and local authorities could adopt. EPA’s own analysis suggests that. EPA modeled scenarios that assumed the application of “ambitious” local control measures, and projected only between 0.5 and 0.9 µg/m³ improvement in ambient PM_{2.5} concentrations in 2010. (p. 4597) EPA’s explanation for why the improvement was so small is telling: “a substantial part of local emissions is attributable to mobile sources, small business, and household activities for which practical, large-reduction, and quick-acting emissions reductions measures could not be identified at this time” (p. 4599). In other words, a substantial portion of the emissions inventory in a nonattainment area consists of sources for which practical, large-reduction and quick-acting

³ Memorandum to John Robbins, EPA, from Chad Whiteman, ICAC, “SO₂ Control Technology Cost Estimates for Industrial Boilers,” 1 (December 12, 2003).

emission reductions are not easily identifiable. Therefore, it makes more sense to enact a national program that covers all significant relevant sources with emission reductions and deadlines that adequately deal with transport and to impose best available controls on those sources.

A comprehensive program with stringent caps and deadlines is absolutely necessary for many areas that are affected by overwhelming transport. EPA's modeling using the Comprehensive Air Quality Model with extensions (CAMx) indicates that, for many areas with ozone nonattainment problems in 2010, emissions from upwind states contribute substantially to the ozone nonattainment problem. In addition, for some areas, even if all anthropogenic emissions are eliminated, they still fail to attain the ozone standards. For example, the Ozone Transport Commission (OTC) has conducted zero-out modeling that indicates that, even if all anthropogenic emissions in the region were eliminated, seven monitors in the OTC's region would continue to register violations of the 8-hour ozone standard solely because of transported pollution.

EPA states that it did not include other sources in the IAQR because of lack of information about the cost-effectiveness of such controls. In a cap-and-trade system, however, sources themselves decide whether it is more cost-effective to control or to purchase an allowance. In addition, if a source is included in a cap-and-trade system, it creates a financial incentive to develop cost-effective controls for emissions from that source. (See ICAC memo referenced in footnote 3.)

EPA should instead consider how costly it would be to rely on local measures to attain the standards (in other words, the cost of *not* applying controls nationally to sources). Given that stationary internal combustion engines and industrial boilers are projected to emit a significant portion of SO₂ and NO_x emissions in 2010 and that clearly many areas are affected significantly by transport of these pollutants, the presumption should be that these sources do contribute significantly to nonattainment and thus should be controlled, unless it can be shown that local controls would be more cost-effective. EPA estimated PM_{2.5} concentrations in nonattainment areas in the East in 2010 after application of its regional control strategy (the IAQR). Twenty-three of the areas would still be in nonattainment for PM_{2.5} by 2010 (p.4636-4637). Assuming areas implemented the "highly ambitious" local controls identified by EPA (p.4597), between twelve to seventeen of these areas would still not attain the PM_{2.5} standard even if they adopted all of EPA's "highly ambitious" local controls. In short, even with the IAQR and even with highly ambitious local controls, twelve to seventeen areas in the East would fail to attain by 2010, the likely deadline for attainment of the PM_{2.5} standards. Clearly, then, additional national measures to address transport are required; EPA's own analysis indicates that local controls to address these emissions are likely to be found wanting even with the IAQR.

II. Visibility Goals are a Separate Requirement that Require Additional Analysis to Determine Means of Achieving Them

Emission reductions from electric power plants will help states make substantial progress towards attaining the 8-hour ozone and fine particulate matter (PM_{2.5}) standards. In addition, these emission reductions will assist states in making progress towards achieving the visibility goals specified under section 169A of the Clean Air Act and the regional haze rule (64 *Federal Register* 35714 (July 1, 1999)). However, detailed analysis of the level of reductions necessary to meet the

visibility goals – particularly with respect to NO_x emissions – has not been conducted. Therefore, promulgation of the IAQR should not preclude either EPA or any state from adopting additional emission reduction requirements for the power plant sector to meet visibility-related requirements. Ideally, a national multi-pollutant emission program for power plants would contain emission reduction requirements stringent enough to address both transport issues and visibility-related requirements, but we lack sufficient knowledge at this time to specify the amount of emission reductions needed from power plants to achieve visibility goals.

III. EPA Should Not Presumptively Deny States Their Ability to Use Clean Air Act Tools for Addressing Transport

Section 126 of the Clean Air Act provides an important tool for a state to call on EPA to require any other state that is contributing significantly to nonattainment or interfering with maintenance of the NAAQS in the petitioning state to revise its State Implementation Plan to control emissions of transported air pollution. The proposed rule states that, in essence, EPA would not act on any section 126 petition calling for reductions in SO₂ and/or NO_x emissions from EGUs in upwind states in the upcoming years:

“[A] long as EPA has promulgated a transport rule under section 110(a)(2)(D), the transport rule and the section 126 timeframes are roughly comparable, and a state is on track to comply with the transport rule, then EPA is not required to approve section 126 petitions targeting sources in that state if those petitions rely on essentially the same record.” (pp. 4580-4581)

EPA should not discard a tool that a state or locality may need to ensure upwind sources are controlled adequately. EPA should not presume that the remedy for interstate air pollution it is proposing in the IAQR is a remedy tailor-made for all states. EPA’s modeling may prove incorrect; its assumptions on emissions inventory or growth may be off; unforeseen circumstances could arise. In other words, EPA should allow a state a fair shot at making its case that upwind sources need to be controlled.

IV. Miscellaneous Issues EPA Needs to Consider

A. EPA Needs to Issue A Final Rule Expediently

EPA intends to finalize the IAQR between approximately December 2004 and June 2005. STAPPA and ALAPCO urge EPA to use its best efforts to complete the rule no later than December 2004. It is likely that state implementation plans for PM_{2.5} will be due in January 2008, and states will need as much as time as possible to consider the impacts of the IAQR on attainment, and what additional emission reductions will be necessary.

B. Inter-pollutant Trading Should Not Be Permitted Without Rigorous Scientific Analysis That This Will Not Impact Areas’ Ability to Attain

EPA is soliciting comment on whether NO_x and SO₂ allowances should be interchangeable, and, if so, at what transfer ratio (p. 4635). EPA’s primary rationale is that such interchangeability

provides regulated entities with more flexibility in compliance, thus reducing the cost of compliance. However, there are many issues that would need to be explored, including what transfer ratio, if any, would best accomplish the goals of achieving PM_{2.5} and ozone attainment in downwind states. For areas with more severe ozone problems than PM_{2.5} problems, should sources that are only putting on SO₂ controls be able to exchange those for NO_x allowances? EPA needs to explore the issues involved with such interchangeability more fully, including a rigorous analysis of whether such inter-pollutant trading would impede areas' ability to attain.

STAPPA and ALAPCO appreciate this opportunity to comment on EPA's proposed Interstate Air Quality Rule and look forward to working with the agency as additional steps are taken with respect to this important issue.

Sincerely,



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STAPPA Chair
Energy Committee



John A. Paul
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Encl.