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September 13, 2011

Air and Radiation Docket and Information Center  
Attention Docket ID No. EPA-HQ-OAR-2010-1076  
U.S. Environmental Protection Agency  
MC 6102T  
1301 Constitution Avenue, NW  
Washington, DC 20460

Re: Comments on Proposed Rule on Widespread Use of Onboard Refueling Vapor Recovery and Stage II Waiver

To Whom It May Concern:

On behalf of the National Association of Clean Air Agencies (NACAA), the organization of air pollution control agencies in 51 states and territories and over 165 metropolitan areas across the country, we are writing to you today regarding the Notice of Proposed Rulemaking (NPRM), as published in the *Federal Register* on July 15, 2011 (76 FR 41731), to establish criteria for determining widespread use of onboard refueling vapor recovery (ORVR) and allow for a waiver of the use of Stage II vapor recovery systems. NACAA appreciates the time EPA staff has spent responding to state and local air agencies' questions regarding the NPRM.

EPA has proposed to establish the date on which ORVR is considered to be in "widespread use," as required under the Clean Air Act (CAA). NACAA supports EPA's effort to fulfill this CAA requirement. Establishment of a widespread-use date for ORVR will allow states and localities that currently have Stage II vapor recovery systems in place to decommission these systems if they so choose and will also allow areas designated nonattainment for ozone in the future to forego installation of Stage II recovery systems. We believe, however, that the proposal should note that decommissioning of Stage II recovery systems is not mandatory. In the final rule, therefore, EPA must clearly and prominently state that its action establishes a date on which EPA believes ORVR is in widespread use, but whether Stage II will be decommissioned or retained in a specific region is a decision reserved for each state or locality.

For regions interested in decommissioning Stage II recovery systems, EPA must provide clear implementation guidance describing the CAA provisions that apply depending on an area's circumstances (i.e., Ozone Transport Region [OTR] states, states opting in to Stage II programs, states with Stage II recovery systems prior to 1990 and states with Stage II as a result of the 1990 CAA amendments), since the applicable CAA requirements vary depending on when Stage II was initially implemented or whether a particular area is part of the OTR. Although some states have successfully decommissioned Stage II recovery systems through the SIP revision process, for those areas eligible to decommission Stage II, NACAA believes EPA must still provide the

elements minimally needed for a SIP revision, including what is needed for areas subject to CAA section 110(l) and for those subject to section 193. The resulting SIP process should be a streamlined one, consistent with the principles underlying the ongoing NACAA-ECOS-EPA SIP Reform Workgroup.

At the same time, however, NACAA cautions EPA not to undermine the ability of states and localities that wish to retain Stage II recovery systems. For many ozone nonattainment areas, Stage II recovery systems have served as an effective means for reducing VOC evaporative emissions from gasoline refueling. In addition, many regions rely on Stage II to reduce toxic air contaminants, such as benzene, found in gasoline. The reduced exposure to toxic air contaminants in gasoline at the point of refueling and the impact on the neighborhood immediately surrounding the refueling station are especially important considerations since older non-ORVR-equipped vehicles tend to be located in lower income and environmental justice communities.

NACAA agrees that with widespread use of ORVR-equipped vehicles, the benefits of Stage II recovery systems diminish over time. However, we also recognize that for numerous regions, Stage II has yielded additional environmental co-benefits and is more effective at achieving emissions reductions than the national average of 86 percent assumed by EPA in the proposed rule. Thus, Stage II recovery systems will likely be effective in reducing VOC and air toxics in some regions long after the June 30, 2013 date proposed for the widespread-use determination. EPA should be mindful of this and include a discussion of the potential benefits of retaining properly operated and maintained Stage II recovery systems in the final rule.

In determining the date of ORVR widespread use, EPA developed a methodology that compared the efficiency of Stage II recovery systems and the number of ORVR equipped vehicles in the fleet. EPA has indicated that if a state or locality finds that removing Stage II requirements would reduce the overall level of reductions for which it previously obtained credit the state or locality, pursuant to the CAA, would need to make a demonstration that removing Stage II would not interfere with attaining or maintaining the ozone NAAQS. As part of the implementation guidance that EPA plans to release in conjunction with the final rule, EPA should provide an example methodology that accounts for all of the emissions reduction benefits of Stage II recovery systems including the number of non-ORVR equipped vehicles that would no longer be refueling at Stage II dispensing facilities. Similarly, the methodology should account for any disbenefits such as excess emissions that occur when ORVR-equipped vehicles refuel at incompatible Stage II installations.

In conclusion, NACAA concurs with EPA's initiative to determine widespread use of ORVR. When final, this determination will provide an opportunity for individual states or localities that can fully demonstrate compliance with applicable Clean Air Act requirements to remove Stage II recovery systems if they choose. In addition, a determination of widespread use will allow future ozone nonattainment areas to forego installation of these systems. Likewise, we recognize that in numerous areas, continued deployment of Stage II recovery systems will provide additional environmental benefits. While NACAA concurs that EPA has the authority to determine when ORVR is in widespread use, the agency must clearly state in the final rule that its determination of widespread use does not automatically allow for discontinued use of Stage II recovery systems. EPA should provide greater detail on the environmental impacts of removing or continuing to operate Stage II recovery systems so that individual regions can make informed decisions on whether or not to decommission these systems. Lastly, state and local air agencies must be provided with clear guidance on a streamlined SIP revision process if they desire to decommission Stage II systems.

NACAA urges EPA to address the concerns expressed in this letter in the final rulemaking. We recognize that doing so will require that an important balance to be achieved and we would welcome the opportunity to work with you to strike that balance.

On behalf of NACAA, we appreciate the opportunity to provide comments on this important proposal. Please contact us, or Nancy Kruger, Deputy Director of NACAA, if you would like to discuss any of these comments in more detail.

Sincerely,



Nancy L. Seidman (Massachusetts)  
Co-Chair  
NACAA Mobile Sources and Fuels Committee



Barry R. Wallerstein (Los Angeles, CA)  
Co-Chair  
NACAA Mobile Sources and Fuels Committee

cc: Gina McCarthy  
Margo Oge