

BOARD OF DIRECTORS

Co-Presidents

David J. Shaw
New York

Bruce S. Andersen
Kansas City, KS

Co-Vice Presidents

George S. Aburn, Jr.
Maryland

Barry R. Wallerstein
Los Angeles, CA

Co-Treasurers

Stuart A. Clark
Washington

Merlyn Hough
Springfield, OR

Past Co-Presidents

G. Vinson Hellwig
Michigan

Lynne A. Liddington
Knoxville, TN

Directors

Mike Bates
Arkansas

Rick Brunetti
Kansas

Anne Gobin
Connecticut

James N. Goldstene
California

James D. Hodina
Cedar Rapids, IA

Thomas Huynh
Philadelphia, PA

David Klemp
Montana

Richard A. Stedman
Monterey, CA

Barry R. Stephens
Tennessee

Executive Director

S. William Becker

March 15, 2012

U.S. Environmental Protection Agency
Air and Radiation Docket and Information Center
Attention Docket ID No. EPA-HQ-OAR-2010-0885
1301 Constitution Avenue, NW
Mail Code 2822T
Washington, DC 20460

To Whom It May Concern:

Pursuant to the solicitation for public comment published in the *Federal Register* by the U.S. Environmental Protection Agency (EPA) on February 14, 2012 (77 FR 8197), the National Association of Clean Air Agencies (NACAA) is pleased to provide the following comments on EPA's proposed rule, *Implementation of the 2008 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications Approach, Attainment Deadlines and Revocation of the 1997 Ozone Standards for Transportation Conformity Purposes*. NACAA is a national, non-partisan, non-profit association of air pollution control agencies in 45 states, the District of Columbia, four territories and over 165 metropolitan areas. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the U.S. The comments we offer are based upon that experience. The views expressed in these comments do not represent the positions of every state and local air pollution control agency in the country.

EPA, based on Subpart 2 of part D of Title I of Clean Air Act, has proposed a classification scheme for nonattainment areas under the 2008 ozone National Ambient Air Quality Standards (NAAQS) that includes a framework under which nonattainment areas are classified into one of six categories (i.e., Marginal, Moderate, Serious, Severe-15, Severe-17 or Extreme) based on the magnitude of their ozone levels using a "percent-above-the-standard" methodology.¹ Increasing amounts of time to attain the NAAQS are provided to areas with each progressively "higher" classification (i.e., three years, six years, 9 years, 15 years, 17 years and 20 years, respectively).²

NACAA believes that this classification scheme does not accurately reflect the real scope of the challenges faced by the many nonattainment areas for which a significant portion of contributing emissions come from sources outside the nonattainment area, sources within the nonattainment area over which state and local air agencies have no regulatory authority

¹ 77 *Federal Register* 8199-8202

² 77 *Federal Register* 8204

or sources for which federal (versus state or local) regulation is far more effective. Accordingly, we cannot overstate the critical need for EPA to move forward without delay to adopt federal rules to address significant source categories. In October 2010, our association adopted the *NACAA Resolution on the Need for Strong Federal Control Measures to Support Attainment and Maintenance of the National Ambient Air Quality Standards*.³ In that resolution, we highlight the need for, and call upon EPA to timely develop and promulgate, strong national strategies and controls for the following seven source categories: electric generating units; industrial, commercial and institutional boilers; cement kilns; light-duty vehicles; locomotive engines; oceangoing marine engines; and aircraft. We reiterate our recommendation at this time, especially with regard to mobile (onroad and nonroad) source categories, which currently represent a large portion of contributing emissions. Such federal control measures will be critical to the success of our efforts to achieve and maintain the NAAQS and we offer NACAA's assistance to EPA to ensure expeditious adoption of these rules. Timely promulgation of federal measures will also greatly assist states' efforts to satisfy the provisions of Clean Air Act section 110(a)(2)(D).

With respect to the attainment deadline associated with each area classification, EPA has proposed two options: 1) an attainment date exactly three years from the effective date of designation and 2) an attainment date three years from the end of the calendar year in which the designation is effective (i.e., all attainment dates would be December 31).⁴ EPA has indicated that option 2 is its preference. NACAA supports EPA's preferred approach, under which it is assured that ozone air quality data from the attainment year can be considered as the third of the requisite three years of air quality data when an area is determining its attainment status. Setting the attainment deadline before the end of the ozone season would preclude such data from being considered and, thus, the determination of attainment status would need to be based on the three prior years' data.

NACAA also supports EPA's proposal, applicable for the purposes of transportation conformity only, to revoke the 1997 ozone standard one year after the effective date of designations for the 2008 ozone standard.⁵ We are especially interested in ensuring against any backsliding relative to transportation conformity during the transition to the 2008 standard and support the requirement that "areas designated nonattainment for the 2008 ozone NAAQS that have adequate or approved SIP budgets for either the 1997 ozone NAAQS or the 1-hour ozone NAAQS must continue to use such budgets in transportation conformity determinations until budgets for the 2008 ozone NAAQS are found adequate or approved."⁶ We are concerned, however, with the potential consequences relative to transportation emissions and conformity for areas that were nonattainment under the 1997 ozone standard but will be attainment under the 2008 ozone standard based on 2008 through 2010 data. When the 1997 standard is revoked, these areas will not be required to do transportation conformity or have mobile budgets. For areas likely to become nonattainment under the 2008 standard, once 2011 or 2012 data are considered the transportation conformity requirement will not be reinstated until the area is redesignated nonattainment and required to develop its attainment SIP. The backsliding that could occur in the interim could adversely affect not only the area itself, but also downwind areas. We recommend that EPA consider and address this issue.

Finally, EPA has indicated that this proposal does not address specific SIP requirements associated with different classification categories, broader revocation (for purposes beyond transportation

³ See http://members.4cleanair.org/rc_files/5080/NACAA_Federal_Control_Measures_Resolution-FINAL.pdf

⁴ 77 *Federal Register* 8203-8204

⁵ 77 *Federal Register* 8204-8206

⁶ 77 *Federal Register* 8205

conformity) of the 1997 ozone standard and any related anti-backsliding issues and that “[t]he remaining implementation requirements for the 2008 ozone NAAQS will be addressed in a separate rulemaking.”⁷ The ozone implementation rule is essential to state and local air agencies and we, therefore, urge EPA to propose and promulgate that rule as quickly as possible. In the future, EPA should provide states and localities with implementation requirements for all NAAQS prior to initiating the designations process.

Once again, we thank you for this opportunity to provide our comments and look forward to final promulgation of this rule by not later than mid-spring 2012. If you have any questions or require further information, please do not hesitate to contact either of us or Nancy Kruger, Deputy Director of NACAA.

Sincerely,



George S. (Tad) Aburn, Jr.
Maryland
Co-Chair
NACAA Criteria Pollutants Committee



Lynne A. Liddington
Knoxville, Tennessee
Co-Chair
NACAA Criteria Pollutants Committee

⁷ 77 Federal Register 8206