

**Before the U.S. Environmental Protection Agency**

**Regarding**

**Federal Implementation Plans to Reduce Interstate Transport  
of  
Fine Particulate Matter and Ozone;  
Proposed Rule**

**Docket No. EAP-HQ-OAR-2009-0491**

**Philadelphia Public Hearing  
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**Testimony of  
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Good morning. My name is David Marshall and I am Senior Counsel to the Clean Air Task Force. I appreciate the opportunity to speak with you today. Based in Boston, the Clean Air Task Force is a national nonprofit, environmental advocacy organization whose mission includes reducing the adverse health and environmental impacts of coal-fired electric generating plants. Our staff and consultants include scientists, economists, MBA's, engineers, and attorneys.

More than a decade ago, EPA promulgated the 1997 air quality standards for fine particulate matter and 8-hour ozone. A more protective PM standard was established in 2006. Today, however, many areas throughout the East and Midwest continue to exceed these health-based standards. The problem would be much worse if many power plants had not reduced their emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) over the past 5 years. In fact, national power plant emissions of sulfur dioxide were 10.3 million tons per year as recently as 2004. Last year, they had fallen to 5.7 million tons, a drop of nearly 50 percent in five years. While this reduction may be attributed to a number of factors, including New Source Review enforcement actions and state regulations, these air quality gains were consolidated and extended through EPA's 2005 Clean Air Interstate Rule.

Of course, CAIR has been invalidated by the DC Circuit Court of Appeals, and much of the progress made over the past few years will be in jeopardy without a strong Transport Rule to replace CAIR. Scrubbers and selective catalytic reduction (SCR) are widely available and extremely effective, but they have an operation and maintenance cost, so utilities will not run them unless they

have to. Furthermore, even at today's pollution levels, the lives of tens of thousands of Americans will be cut short and there are still over 700 coal-fired units in the U.S. operating with no sulfur scrubber in place. At this point, every coal-fired plant in the U.S. should be well-controlled. That is why it is so important for EPA to strengthen and finalize the proposed Transport Rule. First, it will lock in the gains we have made in the last 5 years. Second, the Transport Rule goes farther than CAIR in 15 states and should allow many nonattainment areas in the East to reach attainment (mostly PM).

CATF believes that EPA's proposed transport rule is a good step towards requiring needed air pollution reductions in the electric power sector, and we commend EPA for bringing the proposal forward. We are concerned, however that the proposal falls short of requiring the amount of cost-effective reductions that are reasonably obtainable and necessary to protect human health and the environment. EPA's analysis also shows that the proposed rule will reduce premature deaths by at least 14,000 annually by 2014, and will provide benefits of at least 50 times costs. A stronger rule could save many more lives and provide incremental benefits far in excess of costs.

We therefore urge EPA to:

- reduce the annual control region SO<sub>2</sub> cap to 1.75 million tons and the NO<sub>x</sub> cap to 900,000 tons; and
- include Texas and possibly Arkansas, Mississippi and the Dakotas in the control region.

Our specific comments follow, and will be augmented by detailed written submission for the record by the October 1, 2010 deadline.

We support the basic thrust and structure of the rule, and agree with EPA that the control of both regional and local reductions is a more cost-effective, balanced, and reasonable approach to addressing nonattainment than relying on local reductions alone. We also support EPA's two-step approach to determining significant contribution, although we do have some concerns about its application.

According to EPA's own statements and using its proposed approach to addressing transported air pollution under section 110(a)(2)(D), the Transport Rule proposal does not eliminate all of the projected contribution in upwind states to downwind nonattainment and maintenance problems. EPA's atmospheric modeling shows that even after the proposed rule is implemented:

- several downwind areas (Birmingham, Alabama and Allegheny County, Pennsylvania) will still experience nonattainment or maintenance problems under the 1997 annual PM<sub>2.5</sub> NAAQS;
- at least 14 downwind areas will continue to experience problems with nonattainment or maintenance of the 24-hour PM<sub>2.5</sub> NAAQS;
- several downwind areas (Houston, Baton Rouge and New York City) will continue to experience ozone NAAQS attainment and maintenance problems; and
- power plants in several states that are outside of the proposed control region will increase emissions following implementation of the rule, as they will be subject only to the much weaker Title IV acid rain restrictions; in fact, the increase in Texas is large enough to cause it to become a significant contributor to downwind nonattainment and maintenance problems.

These residual nonattainment and maintenance problems can easily be addressed by EPA by requiring deeper reductions while keeping within the framework of the proposal. With respect to PM<sub>2.5</sub>, Group 2 states have minimal obligations under the current proposal, but there are clearly substantial additional reductions that can be obtained from those states at the \$2000/ton cost threshold applicable under the proposal to Group 1 states; thus, all states should be required to meet the Group 1 state requirements. In addition, there are also substantial additional SO<sub>2</sub> reductions available at slightly higher costs than \$2000/ton; according to EPA estimates, additional reductions of about 500,000 tons of SO<sub>2</sub> could be obtained in 2014 by increasing the proposal's SO<sub>2</sub> cost threshold to \$2400/ton. Our preliminary analysis shows that a 1.75 MT SO<sub>2</sub> cap could be achieved with a cost threshold of about \$2600/ton.

With respect to ozone, EPA should raise the \$500/ton minimum cost threshold in the Transport Rule proposal for requiring ozone season NO<sub>x</sub> reductions, keeping in mind that EPA found in the 1998 NO<sub>x</sub> SIP Call that a cost threshold of up to \$2000/ton (in \$1990; ~\$3200 in \$2006) of NO<sub>x</sub> removed was highly cost-effective.

Furthermore, EPA should include Texas in the control region, and possibly the other non-regulated states that are projected to increase transported emissions.

Finally, we welcome EPA's stated intention to promulgate a number of rules in the future to require emission reductions from this sector beyond those in the Transport Rule proposal, including—

- additional transport proposals as necessary to address upwind transport in connection with future revisions to the ozone or fine PM NAAQS, including a revised ozone NAAQS later this year and a further rulemaking addressing any associated needed reduction in transported NOx by 2012;
- Section 112(d) “MACT” standards, to be proposed by March 2011 and finalized by November 2011;
- revisions to the NSPS for coal and oil-fired power plants for conventional pollutants and greenhouse gases; and
- best available retrofit technology (BART) and regional haze programs to protect visibility.

We urge EPA to follow through with these important regulatory efforts.

We also urge EPA to strengthen the proposed Transport Rule and finalize it as soon as possible.

Thank you for the opportunity to provide these comments.