

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

**Regarding**

**Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone  
(Interstate Air Quality Rule); Proposed Rule**

**Docket No. OAR-2003-0053**

**Philadelphia Public Hearing  
February 25, 2004**

**Testimony of  
David W. Marshall  
(delivered by Jonathan F. Lewis)**



**Clean Air Task Force  
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Good afternoon. My name is Jonathan Lewis and I am an attorney with the Clean Air Task Force. I am appearing here today to present oral testimony for David Marshall, Senior Counsel to the Task Force. CATF is a non-profit environmental organization dedicated to restoring clean air and healthy environments through scientific research, public education, and legal advocacy. CATF appreciates the opportunity to testify today concerning EPA's proposal to reduce power plant emissions contributing to the interstate transport of fine particulate matter and ozone.

Many areas throughout the East and Midwest will not meet EPA's 1997 health-based air quality standards for fine particulate matter and 8-hour ozone when they finally become effective next year. In order for many Eastern nonattainment areas to have a fighting chance of meeting those standards and improving the health of their citizens, steep reductions in transported power plant emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) are necessary. Furthermore, those reductions need to occur during the next several years to help states meet the attainment deadlines required by the Clean Air Act—that is, by 2009 for PM<sub>2.5</sub> and a range of years concentrated in the 2009-2013 timeframe for 8-hour ozone.

EPA's proposed transport rule (the IAQR) is a good step in the right direction, and we commend the Agency for its work in moving this initiative forward.

We are concerned, however that the IAQR proposal does not go far enough or fast enough. We therefore urge EPA to:

- reduce the annual control region SO<sub>2</sub> cap to about 1.83 million tons (approximately equivalent to a 2 million ton nationwide cap); and
- make the reductions effective in one phase, by 2009.

Our specific comments follow, and will be augmented by detailed written submission for the record by the March 30, 2004 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.

CATF also supports EPA's stated use in the IAQR of the basic two-step approach used in the 1998 NO<sub>x</sub> SIP Call. In the SIP Call, EPA first conducted an air quality assessment to determine those states whose emissions are significantly contributing to downwind nonattainment. Then, EPA assessed control costs to identify a level of highly cost effective emission reductions that must be obtained. As I will explain, while we support EPA's use of this two-step approach in principle, we believe that EPA seriously misapplied it here, resulting in the selection of an arbitrarily weak SO<sub>2</sub> control level.

EPA must take the opportunity to tighten both the stringency and the timing of the proposed caps. We are particularly concerned that earlier and more substantial SO<sub>2</sub> reductions from the electric power sector are necessary, cost-effective and reasonable.

EPA's selection of an SO<sub>2</sub> regional cap level seems arbitrary. While the Agency purports to base this level on its cost-effectiveness criteria, but it does

not really do so. In fact, EPA does not determine a level of highly cost effective reductions for either SO<sub>2</sub> or PM<sub>2.5</sub>, but rather simply pre-selects a control level, and then attempts to justify it on general cost-effectiveness grounds. This is backwards from the approach EPA adopted in the NOx SIP Call. It appears that EPA designed its IAQR proposed SO<sub>2</sub> control level to approximate that contained in the Bush administration's so-called "Clear Skies" legislative proposal.

We urge EPA to conduct a real analysis to determine a highly cost effective SO<sub>2</sub> reduction level, taking into consideration control costs for not only SO<sub>2</sub>, but also for annual NOx and PM<sub>2.5</sub>. A regional annual SO<sub>2</sub> control cap for power plants is well within the range of highly cost-effective controls.

EPA states in its IAQR proposal that it is important to address transport "as early as possible." We agree completely. But EPA's proposal does not do that. CATF is particularly concerned about EPA's proposed 5-year delay in fully implementing the relaxed SO<sub>2</sub> cap. The attainment date for the PM<sub>2.5</sub> NAAQS is 2009, and compliance is measured by a 3-year average value; thus controls should be largely in place in 2007, long before EPA's proposed 2015 IAQR implementation date. Such delay is not allowed by law and not justified by a hypothetical shortage of boilermakers or any other relevant policy considerations.

EPA has additionally requested comment on a number of issues related to the relationship between the IAQR and regional haze requirements, including those in the Regional Haze Rule (RHR). EPA's asks several questions that can be boiled down to whether the IAQR emission reductions satisfy either of two RHR requirements:

1. that states achieve reasonable progress towards the national visibility goal in the 2018 time frame; and
2. that certain BART eligible sources install BART controls.

Our simple answer to both of these questions, which we will develop further in our written submission, is “NO.”

The RHR and BART requirements are separate and independent from IAQR, and as a matter of both law and policy, EPA cannot substitute one set of requirements for the other.

Thank you for the opportunity to provide these comments.