



Connecticut Bureau of Air Management, Anne Gobin, Acting
Maine Bureau of Air Quality Control, James Brooks
Massachusetts Bureau of Waste Prevention, Barbara Kwetz
New Hampshire Air Resources Division, Robert Scott, Acting
New Jersey Division of Air Quality, William O'Sullivan
New York Division of Air Resources, David Shaw, Acting
Rhode Island Office of Air Resources, Stephen Majkut
Vermont Air Pollution Control Division, Richard Valentinetti

September 5, 2003

U.S. Environmental Protection Agency
EPA West (Air Docket)
1200 Pennsylvania Avenue, N.W.
Room B108, Mail Code 6102T
Washington, DC 20460
Attention: Docket #OAR 2003-0079

Re: Draft Regulatory Text for Proposed Rule to Implement the 8-Hour Ozone
National Ambient Air Quality Standard

Dear Acting Administrator Horinko:

The Northeast States for Coordinated Air Use Management (NESCAUM) are submitting comments on the U.S. Environmental Protection Agency's (EPA's) notice of availability of draft regulatory text for its proposed rule to implement the 8-hour ozone national ambient air quality standard (NAAQS), as published on August 6, 2003 in the Federal Register (68 FR 46536), and as made available on EPA's website, <http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr>. NESCAUM is a regional association of the eight states of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

NESCAUM opposes EPA's recommended approach of implementing the ozone NAAQS pursuant to Title I, Part D, Subpart 1 of the Clean Air Act (CAA). We maintain that Title I, Part D, Subpart 2, *Additional Provisions for Ozone Nonattainment Areas*, must be used as the operative implementation framework for the ozone NAAQS. We believe that EPA's approach, as delineated in the proposed regulatory text, violates the Clean Air Act. Even if this were not clearly the case, EPA's proposal does not adequately protect public health, in that it provides disincentives for expeditious attainment of the ozone NAAQS and creates inequities between areas that have identical ozone air quality problems with respect to obligations and requirements. We have already submitted comments into docket #OAR 2003-0079 delineating our responses to the proposed rule preamble; those comments extend to the proposed regulatory language.

We are concerned that EPA failed to publish draft regulatory language in tandem with its notice of proposed rulemaking (NPRM) of June 2, 2003 (68 FR 32802-32870), and instead, published partial regulatory text with a 30-day comment period after the comment period closed for the NPRM. We believe that EPA's approach does not serve

Kenneth A. Colburn, Executive Director
101 Merrimac Street, 10th Floor
Boston, Massachusetts 02114
Phone (617) 367-8540
Fax (617) 742-9162
www.nescaum.org

the public well, and significantly impedes appropriate public review of and comment on the 8-hour ozone implementation proposal.

Attached are NESCAUM's comments specific to the language of the proposed regulatory text. These comments do not supplant NESCAUM's earlier comments on the preamble, nor are they intended to repeat NESCAUM's earlier comments. To the extent that these comments address sections pertaining to implementing the 8-hour ozone NAAQS under subpart 1, they should not be construed to support that approach.

If you or your staff have any questions, please contact Leah Weiss through the NESCAUM office at 617-367-8540.

Sincerely,

Arthur N. Marin
NESCAUM Deputy Director

Barbara A. Kwetz
NESCAUM Chair

Attachment

cc: NESCAUM Directors