

May 15, 2017

Scott Pruitt, Administrator
U.S. Environmental Protection Agency (USEPA)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Attention: Docket No. EPA-HQ-OA-2017-0190

Re: *Presidential Executive Order 13777 on Enforcing the Regulatory Reform Agenda*

Dear Administrator Pruitt:

The Northeast States for Coordinated Air Use Management (NESCAUM) offers the following advice and comment on Executive Order (EO) 13777 “Enforcing the Regulatory Reform Agenda.” NESCAUM is the oldest regional association of state air agencies in the nation, and has been working in support of our member states’ programs since 1967.¹ With this long history, we can provide the Agency with highly relevant insight and experience in protecting public health and the environment while minimizing regulatory burdens consistent with existing law and science.

One important aspect of reducing regulatory burdens is avoiding a chronic patchwork of state requirements by cooperatively fostering consistent multi-state approaches that also appropriately maintain the states’ role as “laboratories of innovation.” This is something the NESCAUM states have had long experience in doing. Past examples of NESCAUM states’ leadership in this area include:

- State programs leading to first-in-the-nation installation of selective catalytic reduction (SCR) controls on fossil-fuel power plants to lower ozone-forming pollution;
- State programs leading to first-in-the-nation pollution controls on coal power plants to limit mercury air pollution, thus lowering mercury levels in fish consumed by the public; and

¹ NESCAUM is comprised of the state air agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

- Multiple states' adoption of California's more stringent automobile tailpipe standards leading ultimately to harmonized national requirements.

These are several key examples of NESCAUM states developing early experience in regulatory programs in advance of federal requirements, all the while maintaining a robust regional economy. Furthermore, multiple assessments of air quality regulatory efforts such as these consistently show that their benefits have far out-weighted their costs,² giving further credence to these approaches. Any robust review of regulations under the regulatory reform agenda should include consideration of these well-documented benefits.

While we have sought to minimize regulatory burdens in our states, we continue to be challenged in developing more effective programs. For example, we have had less success at completely addressing the amount of interstate air pollution from large fossil fuel power plants and other emission sources that crosses state borders and interferes with attaining and maintaining air quality health standards in downwind areas. This places a heavier regulatory burden on sources in the downwind areas that have to reduce pollution at substantially greater cost to compensate for less-effectively controlled upwind pollution sources.

We also suggest the USEPA reconsider the "Once In, Always In" policy provisions to provide incentives for achieving equivalent reductions of hazardous air pollutants (HAPs) from pollution prevention measures relative to installing maximum achievable control technology (MACT), as recommended by the Environmental Council of the States (ECOS) in Resolution 00-12.³ This would reduce administrative and reporting burdens on sources implementing these measures. We emphasize, however, that this must be contingent upon the pollution prevention measures being permanent and enforceable through permit conditions.

Sufficient funding support is also essential to achieving our mutually shared regulatory and public health goals. Adequate funding levels through the USEPA, which has been increasingly lacking in recent years, will help reduce burdens on the regulated community by having more

² See, N.Z. Muller, "Boosting GDP growth by accounting for the environment," 345 *Science* 873-874 (2014); Office of Management and Budget (OMB), *2011 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, OMB Office of Information and Regulatory Affairs (2011); U.S. Environmental Protection Agency, *The Benefits and Costs of the Clean Air Act from 1990 to 2020*, Final Report, USEPA Office of Air and Radiation (March 2011).

³ ECOS Resolution 00-12, *Change to the United States Environmental Protection Agency's "Once In, Always In" Policy*, (approved August 15, 2000, revised September 2, 2015). Available at <https://www.ecos.org/wp-content/uploads/2016/02/Resolution-00-12-Once-in-2015v.pdf>.

state resources available to assist businesses in their understanding and planning efforts to meet clean air and public health requirements.

We look forward to hearing more from the USEPA as it considers the application of EO 13777 to regulatory programs addressing air pollution. To that end, we stand ready to provide assistance to the Agency in constructively considering the full suite of burdens air pollution places upon our states, the public, and the environment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur N. Marin".

Arthur N. Marin
Executive Director

cc: NESCAUM directors
EPA Regions 1 & 2