

March 19, 2009

Michael Hadrick
National Program Manager
Office of Air and Radiation
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code 6102A
Washington, DC 20460

Re: EPA Draft Fiscal Year 2010 National Program & Grant Guidance

Dear Mr. Hadrick:

The Northeast States for Coordinated Air Use Management (NESCAUM) offer the following comments on the U.S. Environmental Protection Agency's (EPA's) Draft Fiscal Year 2010 National Program & Grant Guidance (draft guidance). NESCAUM is the regional association of air pollution control agencies representing Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

Addressing Interstate Transport

The control of interstate pollution transport remains critical to timely attainment of the National Ambient Air Quality Standards (NAAQS) in the NESCAUM region. Specific commitments for addressing transport must be a top EPA priority and included in the guidance. It is especially timely given the D.C. Circuit Court decision on the Clean Air Interstate Transport Rule (CAIR). States are also commencing planning efforts to meet more stringent and health protective NAAQS for ozone and fine particulate matter (PM_{2.5}), with obligations to submit State Implementation Plans (SIPs) under section 110(a)(2)(D) of the Clean Air Act. EPA should promptly revise the CAIR and take other actions, as needed, to ensure that every state addresses its transport responsibility. States also need timely and clear guidance, and rules as appropriate, from EPA on how SIPs should be developed in light of the legal uncertainty of the CAIR cap-and-trade program.

Related and critical components to addressing transport that should be included in the guidance are:

- (1) a commitment by EPA Headquarters, in partnership with the Regions and the states, to update Reasonably Available Control Technologies (RACT) to ensure that this is a viable and cost-effective program for addressing transported pollution and attaining the NAAQS; and
- (2) a commitment by EPA to adopt national rules for area and industrial sources for which NESCAUM and the Ozone Transport Commission have been advocating (e.g., industrial boilers, peaking units, consumer products).

Federal-State Partnership

Our clean air and climate agendas are formidable and necessary, given our mandate to protect public health and the environment. The need to work efficiently and economically is even more pressing, given the current economic crisis. It is therefore critical that EPA and states work together, as partners and co-regulators, moving forward. We urge EPA to engage with states to foster dialogue and information exchange as federal programs are planned, developed, and implemented, with the goal of ensuring real environmental benefits as expeditiously as possible.

Climate Change

We were pleased to see that the Climate section of the draft guidance will be rewritten later this year to reflect the Administration's priorities. At present, many of EPA's greenhouse gas reduction programs are heavily focused on voluntary actions. We urge EPA to commit resources toward:

- (1) completing the agency's response to the U.S. Supreme Court decision in *Massachusetts v. EPA* with respect to an endangerment finding;
- (2) completing the agency's reconsideration of California's waiver request to establish greenhouse gas limits for light-duty vehicles (EPA should grant the waiver and include in the guidance a commitment to assist states in regulatory responses);
- (3) working in partnership with the states and The Climate Registry (TCR) to develop greenhouse gas reporting and data systems (this includes ensuring that EPA leverages existing data systems to develop the most efficient and comprehensive approach for EPA, states, and reporters);
- (4) exploring existing and planned programs to reduce greenhouse gas emissions, including economy-wide approaches; and
- (5) supporting the nexus between climate, air quality, and non-EPA jurisdictional areas in addressing the challenges of climate change.

Mercury

It is critical that EPA take swift action to regulate mercury under section 112 of the Clean Air Act to protect public health and the environment. The NESCAUM states have previously urged EPA to establish Maximum Achievable Control Technology (MACT) standards to control mercury from existing and new coal-fired power plants. Such an effort should be reflected in the program guidance. In addition, the New England states and New York have petitioned EPA under section 319(g) of the Clean Water Act for a management conference to address out-of-region mercury sources contributing to mercury impairment in water bodies within the region. We encourage EPA's air and water staff to provide a coordinated and appropriate response to the petition.

National Ambient Air Quality Standards

It is imperative that EPA quickly adopt guidance and regulations needed by states to implement the 2006 PM_{2.5} and 2008 ozone NAAQS revisions. This includes guidance related to modeling, implementation, and inventories that will enable development of approvable SIPs. As state resources get tighter, we will need better and more efficient tools and even swifter responses from EPA. EPA should include in the draft guidance plans to address the recent D.C. Circuit Court remand of the PM-fine annual and secondary NAAQS in a timely manner.

Additional critical components to NAAQS planning and implementation that should be included are:

- (1) clear guidance on how to account for peak day emissions in attainment planning;
- (2) improved coordination between energy and air quality planning, including exploring how EPA can engage in the Federal Energy Regulatory Commission's process to further air quality objectives;
- (3) a commitment from the EPA Region offices to provide timely processing of submitted SIPs; and
- (4) a commitment from EPA to adopt strong national rules to support states' NAAQS attainment and maintenance efforts. This should include national ozone rules for area sources consistent with those adopted by OTC and California, and emission standards for new and existing industrial, commercial and institutional (ICI) boilers through RACT and New Source Performance Standards.

Promote Collaborative and Multi-Pollutant Air Quality Planning

The draft guidance proposes that any future funding of Regional Planning Organizations (RPOs) be dependent on states agreeing to direct their funds to those RPOs. This will be extremely challenging, given ever-dwindling state budgets. We urge EPA to reexamine models that could ensure funding for RPOs without adversely affecting the funding that states need to fulfill their obligations. We also encourage EPA to:

- (1) ensure timely submittal and processing of required regional haze plans; and
- (2) foster multi-pollutant planning approaches and strategies that can more effectively address criteria pollutants, greenhouse gases, regional haze and other air quality goals, including opportunities for energy efficiency and renewable energy.

If you have any questions or would like to discuss our comments in greater detail, do not hesitate to contact me at 617-259-2017.

Sincerely,



Arthur N. Marin
Executive Director

Cc: NESCAUM Directors
David Conroy, EPA Region 1
William Baker, EPA Region 2
Lindsay Adams, EPA HQ
Daniel Hopkins, EPA HQ
John Shea, New England Governors' Conference
Ron Poltak, NEIWPCC