State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

WISCONSIN
DEPT. OF NATURAL RESOURCES

October 7, 2011

Ms. Lisa P. Jackson, Administrator
Office of the Administrator
Environmental Protection Agency
Room 3000, Ariel Rios Building
1200 Pennsylvania Ave, NW
Washington, DC 20460

Subject: Request for Reconsideration of the Cross State Air Pollution Rule

Dear Administrator Jackson:

The Wisconsin Department of Natural Resources, on behalf of the State of Wisconsin, is respectfully submitting a request for EPA to reconsider the recently finalized Cross State Air Pollution Rule (CSAPR). Wisconsin strongly supports addressing the transport of air pollutants between states. However, in essence, we are highly concerned that Wisconsin electric utilities will not be able to comply with CSAPR in the manner and at cost levels EPA anticipates. As we understand it some of this result is due to both factual errors and new information with respect to the technical basis used in finalizing the rule. Further, we feel the approach taken in defining each state's emission reduction responsibility does not directly or equitably address those emissions actually contributing to attainment and maintenance issues. The result is a higher cost for Wisconsin and perhaps a higher cost in total under CSAPR for achieving the goal of attaining and maintaining air quality standards.

It is critical that EPA and states take the time necessary for additional review of the CSAPR requirements. This consideration is warranted as CSAPR will have significant cost impacts to the citizens of Wisconsin. Therefore, I ask EPA to carefully consider our request for reconsideration. If you have any questions regarding this matter, please feel free to contact Mr. Bill Baumann, Director, Bureau of Air Management at (608) 267-7542 or william.baumann@wisconsin.gov for any needed discussion or clarifications.

Sincerely,

Matt Moroney, Deputy Secretary
Wisconsin Department of Natural Resources

cc. Pat Stevens, Administrator, Division of Air and Waste, WDNR
Bill Baumann, Director, Bureau of Air Management, WDNR
Thomas Dawson, Wisconsin Department of Justice
Ms. Meg Victor, Clean Air Markets Division, USEPA
Ms. Sonja Rodman, Office of General Counsel, USEPA

October 7, 2011

Administrator Lisa P. Jackson
Office of the Administrator
Environmental Protection Agency
Room 3000, Ariel Rios Building
1200 Pennsylvania Ave, NW
Washington, DC 20460

PETITION FOR RECONSIDERATION AND REQUEST TO STAY THE FINAL RULE ENTITLED "FEDERAL IMPLEMENTATION PLANS: INTERSTATE TRANSPORT OF FINE PARTICULATE MATTER AND OZONE AND CORRECTION OF SIP APPROVALS"

Docket No. EPA–HQ–OAR–2009–0491
76 *Fed. Reg.* 48208, *et seq.*, August 8, 2011

The Wisconsin Department of Natural Resources (the "WDNR") on behalf of the State of Wisconsin ("the state" or Wisconsin) respectfully requests that the U.S. Environmental Protection Agency ("EPA") reconsider and immediately stay the compliance deadline and effective date of EPA's Final Rule entitled, "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals" ("Cross-State Air Pollution Rule (CSAPR)"), 76 Fed. Reg. 48208 et seq. (August 8, 2011), as it applies to Wisconsin.

INTRODUCTION

Wisconsin has been and continues to be a strong supporter for addressing transport of air pollutants. Wisconsin is a significant receptor of pollutants from other states. However, insofar as Wisconsin emissions budgets under CSAPR, the Final Rule presents the state with significantly reduced emission and does not constitute a "logical outgrowth" of the Proposed Rule. As such, the CSAPR represents an unauthorized action by EPA. EPA has specifically prescribed authority under the Clean Air Act ("CAA") to develop Federal Implementation Plans ("FIPs") to limit the interstate transport of emissions that contribute to fine particulate matter ("$PM_{2.5}$") and ozone ("O_3") concentrations in downwind states. EPA has identified 27 states, including Wisconsin, that they contend significantly affect the ability of downwind states to attain and maintain compliance with the applicable National Ambient Air Quality Standards ("NAAQS")[1].

While it is clear that an agency's final version of a rule may present changes from the proposed version, the courts apply a "logical outgrowth" test to determine whether a deviation is

[1] WDNR is aware of EPA's Oct 6 proposed rulemaking of technical adjustment to CSAPR, nevertheless we bring these arguments to the extent that our position may not have been addressed by that proposed rulemaking.

so great as to require separate opportunity for notice and comment. *See National Exchange Carrier Ass'n, Inc. v. F.C.C.*, 253 F. 3d 1, 4 (D.C. Cir. 2001). In fact, the "logical outgrowth" test has become the dominant test among the federal courts. *Id.* A final rule will be deemed a "logical outgrowth" of a Proposed Rule only if interested parties should have anticipated that the final provision was a possibility and reasonably should have commented. *See International Union, United Mine Workers of America v. Mine Safety and Health Admin.*, 407 F. 3d 1250, 1259 (D.C. Cir. 2005); *American Water Works Ass'n v. EPA*, 40 F. 3d 1266, 1274-1275 (D.C. Cir. 1994); *Chocolate Mfrs. Ass'n of U.S. v. Block,* 755 F. 2d 1098, 1106-1107 (4th Cir. 1985).

The WDNR, in order to anticipate the final version of the nitrogen oxides ("NO_x") and sulfur dioxide ("SO_2") annual emission budgets, would have needed another opportunity to review and provide comment on the input assumptions used for EPA's Integrated Planning Model ("IPM"). Without adequate notice and opportunity to provide comments, EPA in the Final Rule compared to the Proposed Rule reduced Wisconsin's proposed state SO_2 allowance budget by almost 15% in 2012 and 38% in 2014, and reduced the proposed state NO_x budget by almost 30%. Given the speed at which EPA is requiring sources to begin complying with the Final Rule, these major unexpected cuts leave Wisconsin utilities with severely restricted regulatory and compliance options other than a rapid and larger than anticipated shift in generation, which could lead to large rate increases for customers.

As explained more fully below, the WDNR requests that EPA reconsider the rule on the following grounds:

1. Emission Budget Errors

EPA used the IPM to set Wisconsin's state budgets based on the chosen 2012 and 2014 cost per ton thresholds, but the input assumptions used in the model are factually incorrect and do not accurately account for Wisconsin's regulatory approval processes. For example, EPA's model appears to have incorrectly assumed that seven electric generating units ("EGUs") in Wisconsin comprising approximately 1660 total MWs will have environmental controls operating by January of 2012 (1660 MW SCR / 1124 MW scrubber), when in fact none of them will have such controls by that time and only a subset will be installed and operating during 2012. If EPA simply corrected these obvious factual errors, Wisconsin's state budgets for SO_2 and NO_x would increase substantially. **The WDNR requests EPA stay the Final Rule and establish replacement 2012, 2014, and 2015 emission budgets for Wisconsin based on technical corrections to the inputs for EPA's IPM Remedy Runs for 2012 and 2014.**

2. Implementation

EPA has provided for a compliance time frame that increases implementation cost beyond EPA's initial estimates. In addition, Wisconsin is precluded from adopting an allocation SIP for 2012, as discussed below in more detail. **The WDNR requests EPA adequately stage emission budgets which address implementation issues and full development of emission allowance markets.**

3. Consideration of Significant Contribution

Once EPA determined a state meets the threshold for significant contribution (1% of the standard) EPA did not adequately consider and delineate the portion of contributions from each state that interfere with attainment and maintenance. Under CSAPR, EPA treats each state contribution as equally impacting a receptor. In this regard, the WDNR does not support having to achieve greater reduction of contribution while other states have higher initial and residual contribution to the same receptor. **The WDNR requests EPA clearly define what portion of Wisconsin's contribution is interfering with attainment and maintenance compared to other nearby states, set the emission budgets accordingly, and re-evaluate Wisconsin's group classification.**

4. FIP vs. SIP

EPA did not give Wisconsin, or any of the impacted states, an opportunity to develop a State Implementation Plan (SIP) to address the CSAPR, most notably no ability for states to develop 2012 emission allocations. This "FIP first" approach fails to comply with the CAA. **The WDNR requests, at a minimum, that EPA provide time and mechanisms under CSAPR for submitting a SIP for meeting primary rule requirements, including for the initial year of compliance.**

Given these substantial legal and factual problems with the rule, the WDNR asks the EPA to immediately stay and reconsider the Final Rule as to Wisconsin.

I. BACKGROUND

The United States EPA issued the above-referenced CSAPR under the federal CAA as a replacement for its previous Clean Air Interstate Rule ("CAIR"). 70 *Fed. Reg.* 25162, *et seq.*, April 26, 2006. EPA issued CAIR pursuant to the "good neighbor" provision of the CAA, § 110(a)(2)(D)(i)(I).

A. Clean Air Act and EPA Regulations

Congress assigned the task of developing NAAQS to the Administrator of the United States EPA. 42 U.S.C. § 7409. Under the CAA, this Court explained, the "EPA determines the ends – the standards of air quality – but Congress has given the states the initiative and a broad responsibility regarding [the] means to achieve those ends through state implementation plans." *Virginia v. EPA*, 108 F. 3d 1397, 1408 (D.C. Cir. 1997). The CAA requires the states to submit SIPs that "contain adequate provisions prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interference with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard." 42 U.S.C. § 7410(a)(2)(D).

The states' authority to develop SIPs is checked by a limited grant of authority to the Administrator to promulgate a FIP if a state fails to make a required submission or if a submission is inadequate. 42 U.S.C. § 7410(c)(1). Only after these conditions have been satisfied may the Administrator promulgate a FIP.

CAA § 110(a)(2)(D)(i)(I) requires SIPs to contain adequate provisions to control interstate transport of pollution. That requirement logically entails the need for a number of determinations: 1) whether a downwind area is not attaining a particular NAAQS; 2) if an upwind state is allowing emissions in an amount which "significantly contributes" to that nonattainment; 3) if the downwind state has attained a particular NAAQS, whether an upwind state is interfering with the maintenance of that standard; and 4) if there are emissions from the upwind state significantly contributing to downwind nonattainment or interfering with maintenance, what level of reduction is necessary, and from which sources in what locale, to alleviate those impacts. Without these determinations, a state could not reasonably be expected to revise a SIP to carry out the section 110(a)(2)(D)(i)(I) mandate.

B. The *North Carolina* Decision

The U.S. Court of Appeals for the District of Columbia Circuit ("D.C. Circuit") rejected CAIR on judicial review, ruling that CAIR suffered from several "fatal flaws." *North Carolina v. EPA*, 550 F.3d 896 (D.C. Cir. 2008). The CSAPR is EPA's attempt to issue regulations that comply with the "good neighbor" provision, CAA § 110(a)(2)(D)(i)(I), while avoiding these "fatal flaws."

The *North Carolina* decision found that because states could freely trade allowances under CAIR, the rule did not ensure that each state would eliminate its significant contributions to other states' air quality problems, as all sources within a state could conceivably purchase allowances rather than install controls. *Id.* at 906-908. The Court held that the "good neighbor" provision requires EPA to "actually require elimination of emissions from sources that contribute significantly and interfere with maintenance in downwind nonattainment areas." *Id.* at 908. While EPA can consider cost when determining what level is "significant," the Court ruled that EPA cannot "just pick a cost for a region, and deem 'significant' any emissions that sources can eliminate more cheaply." *Id.* at 918. Moreover, as the Court explained, the "good neighbor" provision "gives EPA no authority to force an upwind state to share the burden of reducing other upwind states' emissions. Each state must eliminate its own significant contribution to downwind pollution." *Id.* at 921.

C. Wisconsin's Injury from the Cross-State Rule

The final CSAPR establishes Wisconsin annual "emission budgets" for SO_2 and NOx that are disproportionate to emission budgets for many other states relative to contribution. The emission budgets also do not address substantial implementation issues which will cause increased cost. The emission budgets thereby unfairly and illegally penalize Wisconsin utilities and ratepayers. One Wisconsin utility estimates that the CSAPR alone will require it to raise its rates by 3.3% just to cover the cost increases in 2012. If left in its current form, the WDNR expects further significant unanticipated rate increases, particularly related to the 2012 and 2014 CSAPR emission budgets for SO_2.

The WDNR provided comment, but did not object to the Proposed Rule's budgets for Wisconsin during the rulemaking leading to the final CSAPR. This is because the proposed budgets appeared to be more reasonably characterizing actual conditions and did not treat Wisconsin and its ratepayers inequitably when compared to other states' proposed budgets and contribution. Now that Wisconsin has reviewed the final CSAPR and the much lower and disproportionate SO_2 and NO_x budgets, Wisconsin finds the need to file this petition for reconsideration and stay of the rule.

II. WISCONSIN'S REQUEST FOR RECONSIDERATION AND STAY

Given the following substantial legal and factual problems with the rule, Wisconsin asks the EPA to immediately stay the Final Rule as to Wisconsin and reconsider it.

A. Emission Budget Errors

The errors in the Wisconsin emission budgets are a result of incorrect input assumptions in IPM. The following electric generating units (EGUs) need technical adjustments for projecting budget year emission levels:

- Alma 4, 5
- Blount St. Facility
- Bay Front Units 1, 2, 5
- Columbia 1 and 2
- Edgewater 3, 4, 5
- J.P. Madgett
- Manitowoc Unit 8
- Nelson Dewey Units 1 and 2
- South Oak Creek Units 5, 6, 7, 8
- Valley 1, 2, 3, 4
- Weston 3

Some units have been shown with retrofit post-combustion controls and coal switches which are either off schedule from the actual installation dates or are not yet in the process of approval, design and/or construction. Additional facilities which are locked into subbituminous coal contracts would not be able to access lower sulfur coals noted in IPM for 2012 and 2014. In addition, for coals that can be switched to lower sulfur fuels, initial information indicates the cost for some generation units in Wisconsin is greater than the $500/ton level assumed under IPM for this action. Finally, a handful of smaller units affected by the program have not been modeled within the IPM structure and need to be accounted for in final budgets. While it appears that EPA did this to some extent, it is not detailed in the final CSAPR emission budget numbers.

Table 1 illustrates the emission budget fixes and resulting emission levels identified to date by the WDNR for Wisconsin utilities. These corrections are preliminary in nature and should be the subject of further review and consideration by all affected entities, especially concerning initial implementation issues and costs as modeled by IPM. It should be noted that

since finalization of the rule Wisconsin and EPA have been discussing these emission budget issues.

Table 1: Identified Corrections to Emission Budgets

Unique Id	Plant Name	County	Capacity (MW)	Fuel Type
4140_B_B4	Alma	Buffalo	51.02	Coal
4140_B_B5	Alma	Buffalo	76.86	Coal
3992_B_8	Blount Street	Dane	49.00	Coal
3992_B_9	Blount Street	Dane	48.20	Coal
8023_B_1	Columbia	Columbia	554.86	Coal
8023_B_2	Columbia	Columbia	558.96	Coal
4050_B_3	Edgewater	Sheboygan	75.91	Coal
4050_B_4	Edgewater	Sheboygan	321.17	Coal
4050_B_5	Edgewater	Sheboygan	414.43	Coal
4271_B_B1	John P Madgett	Buffalo	397.59	Coal
4125_B_9	Manitowoc	Manitowoc	30.00	Pet. Coke
4054_B_1	Nelson Dewey	Grant	106.75	Coal
4054_B_2	Nelson Dewey	Grant	111.08	Coal
4041_B_5	South Oak Creek	Milwaukee	261.00	Coal
4041_B_6	South Oak Creek	Milwaukee	264.00	Coal
4041_B_7	South Oak Creek	Milwaukee	292.51	Coal
4041_B_8	South Oak Creek	Milwaukee	306.30	Coal
4042_B_1	Valley	Milwaukee	70.00	Coal
4042_B_2	Valley	Milwaukee	69.65	Coal
4042_B_3	Valley	Milwaukee	69.80	Coal
4042_B_4	Valley	Milwaukee	70.00	Coal
4078_B_3	Weston	Marathon	338.00	Coal
* 1	Manitowoc – 8			Pet. Coke
* 2	Bay Front – 1			Wood /Coal
* 3	Bay Front – 2			Wood / Coal
* 4	Bay Front - 5			Coal

Table 1: Identified Corrections to Emission Budgets - continued

Unique Id	Firing	Bottom	EMF_Controls	Existing NOx Control
4140_B_B4	wall	dry	Cold-side ESP + SNCR	LNB
4140_B_B5	wall	dry	Cold-side ESP + SNCR	LNB
3992_B_8	wall	dry	Cold-side ESP + Cyclone	LNB
3992_B_9	wall	dry	Cold-side ESP + Cyclone	LNB
8023_B_1	tangential	dry	Hot-side ESP	LNB + OFA
8023_B_2	tangential	dry	Cold-side ESP	LNB + OFA
4050_B_3	cyclone	wet	Cold-side ESP + SNCR	OFA
4050_B_4	cyclone	wet	Cold-side ESP + SNCR	OFA
4050_B_5	wall	dry	Cold-side ESP	LNC2
4271_B_B1	wall	dry	Hot-side ESP + Fabric Filter	LNF
4125_B_9	FBC	dry	Cold-side ESP + Fabric Filter + SNCR	
4054_B_1	cyclone	wet	Cold-side ESP + SNCR	RRI + OFA
4054_B_2	cyclone	wet	Cold-side ESP + SNCR	RRI + OFA
4041_B_5	wall	dry	Cold-side ESP	LA
4041_B_6	wall	dry	Cold-side ESP	LA
4041_B_7	tangential	dry	Cold-side ESP	LNC3
4041_B_8	tangential	dry	Cold-side ESP	LNC3
4042_B_1	wall	dry	Fabric Filter	LNB
4042_B_2	wall	dry	Fabric Filter	LNB
4042_B_3	wall	dry	Fabric Filter	LNB
4042_B_4	wall	dry	Fabric Filter	LNB
4078_B_3	tangential	dry	Fabric Filter	LNB + OFA
* 1	FBC			
* 2	stoker			
* 3	stoker			
* 4	cyclone			

Table 1: Identified Corrections to Emission Budgets - continued

Unique Id	2012 Budget Issues	WDNR Estimated 2012 NOx Budget (1000 tons)	WDNR Estimated 2012 SO2 Budget (1000 tons)
4140_B_B4	Adjusted to reflect 2011 Coal	0.545	0.848
4140_B_B5	Adjusted to reflect 2011 Coal	0.822	1.278
3992_B_8	Unit will operate on Natural Gas	0.059	0.012
3992_B_9	Unit will operate on Natural Gas	0.039	0.008
8023_B_1	Adjusted to reflect 2011 Coal	2.672	12.111
8023_B_2	Adjusted to reflect 2011 Coal	2.409	10.919
4050_B_3	Adjusted to reflect 2011 Coal & Current NOx Limits	0.344	1.234
4050_B_4	Adjusted to reflect 2011 Coal & Current NOx Limits	1.176	4.548
4050_B_5	Adjusted to reflect 2011 Coal & Current NOx Limits - IPM output presents confusion on 2012 status of 2013 Ozone Season Scheduled SCR	1.281	6.063
4271_B_B1	2011 Coal - No SCR is actively in Design or Construction Phase	2.827	5.183
4125_B_9	2011 Fuel Blend results in different NOx and SO2 emission rates	0.158	0.341
4054_B_1	2011 Coal less Pet Coke	0.728	2.184
4054_B_2	2011 Coal less Pet Coke	0.804	2.412
4041_B_5	2011 Coal - no SCR or Scrubber requirement until 01/01/2013, rates for 2012 reflect partial (1/2) year operation	1.170	2.990
4041_B_6	2011 Coal - no SCR or Scrubber requirement until 01/01/2013, rates for 2012 reflect partial (1/2) year operation	1.203	3.040
4041_B_7	2011 Coal - no SCR or Scrubber requirement until 01/01/2013, rates for 2012 reflect partial (1/2) year operation	1.050	3.715
4041_B_8	2011 Coal - no SCR or Scrubber requirement until 01/01/2013, rates for 2012 reflect partial (1/2) year operation	1.075	3.803
4042_B_1	2011 Coal	0.457	1.467
4042_B_2	2011 Coal - no SCR	0.458	1.469
4042_B_3	2011 Coal - no SCR	0.451	1.448
4042_B_4	2011 Coal	0.449	1.442
4078_B_3	NA - Confusion on Dispatchable FGD Placeholder - but no rate impact	2.113	6.252
* 1	Unit not shown in IPM	0.030	0.200
* 2	Unit not shown in IPM	0.119	0.057
* 3	Unit not shown in IPM	0.131	0.088
* 4	Unit not shown in IPM	0.415	0.202

Table 1: Identified Corrections to Emission Budgets - continued

Unique Id	2014 Budget Issues	WDNR Estimated 2014 NOx Budget (1000 tons)	WDNR Estimated 2014 SO2 Budget (1000 tons)
4140_B_B4	Adjusted to reflect 2011 Coal	0.645	1.003
4140_B_B5	Adjusted to reflect 2011 Coal	0.971	1.511
3992_B_8	Unit will operate on Natural Gas	0.156	0.031
3992_B_9	Unit will operate on Natural Gas	0.153	0.031
8023_B_1	Dry Scrubber activated mid-year 2014	2.723	6.762
8023_B_2	Dry Scrubber activated mid-year 2014	2.657	6.599
4050_B_3	2011 Coal & Current NOx Limits	0.490	1.138
4050_B_4	2011 Coal & Current NOx Limits	1.253	4.844
4050_B_5	2011 Coal & Current NOx Limit- No SCR til 2013 Ozone Season	0.595	5.311
4271_B_B1	2011 Coal - No SCR is actively in Design or Construction Phase	0.723	5.306
4125_B_9	2011 Coal and ER Limits - No SCR or Scrubber Commitments	0.150	0.324
4054_B_1	2011 Coal less Pet Coke	0.745	2.236
4054_B_2	2011 Coal less Pet Coke	0.761	2.282
4041_B_5	SCR & Wet Scrubbers mid-2012	0.364	0.437
4041_B_6	SCR & Wet Scrubbers mid-2012	0.372	0.446
4041_B_7	SCR & Wet Scrubbers mid-2012	0.405	0.486
4041_B_8	SCR & Wet Scrubbers mid-2012	0.428	0.514
4042_B_1	2011 Coal and ER Limits - No SCR or Scrubber Commitments - 2012 Activity Level	0.457	1.467
4042_B_2	2011 Coal and ER Limits - No SCR or Scrubber Commitments - 2012 Activity Level	0.458	1.469
4042_B_3	2011 Coal and ER Limits - No SCR or Scrubber Commitments - 2012 Activity Level	0.451	1.448
4042_B_4	2011 Coal and ER Limits - No SCR or Scrubber Commitments - 2012 Activity Level	0.449	1.442
4078_B_3	NOX RACT Not Required & No Commitment to Scrubber Installation	2.113	6.252
* 1	Unit not shown in IPM	0.030	0.200
* 2	Unit not shown in IPM	0.119	0.057
* 3	Unit not shown in IPM	0.131	0.088
* 4	Unit not shown in IPM	0.415	0.202

B. Implementation Issues

The compliance timeframe for the CSAPR increases implementation cost beyond EPA's initial estimates. The CSAPR was finalized in August 2011. This is the first opportunity that states and electric utilities have had to review and respond to the significantly more stringent emission budgets and resulting allocations applicable to 2012. Within a few short months, Wisconsin utilities must respond and make compliance decisions.

A significant factor here is that EPA's costing of the emissions budget assumes a perfect market for allowance trading, electric power purchases, and ideal operation of generation units. These are inaccurate assumptions. Given the compliance timeframes of the rule utilities need to make decisions now regarding compliance. However, allowances have not even yet been distributed to the holder accounts, nor has a robust allowance market developed. Therefore, purchasing of allowances is not a realistic compliance option for 2012, leaving the utilities with the primary option of curtailing electric generation and purchasing power from outside of their own system. The curtailment of generation raises an important concern regarding electric reliability, which must be fully addressed.

In its 2012 CSAPR evaluations used to establish the 2012 budgets, EPA has assumed utilities have the capability to switch to lower sulfur coals and to change existing fuel blends, even though coal suppliers have been reluctant to let utilities out of current long term coal contracts or to transition to new contracts. Some of this extra cost is well in excess of the $500/ton SO_2 reduced EPA depends on to ground the 2012 budgets for both SO_2 and NOx. As a consequence, fuel switching may not be an option to reduce emissions in light of the existing fuel contracts.

Under the rule reconsideration, EPA needs to address these real challenges to implementing the rule.

C. Consideration of Significant Contribution

EPA's stated intent for the CSAPR is to address transport of air pollutants between states as required under the CAA 110(a)(2)D:

> "*In this action, EPA is limiting the interstate transport of emissions of nitrogen oxides (NO_x) and sulfur dioxide (SO_2) that contribute to harmful levels of fine particle matter ($PM_{2.5}$) and ozone in downwind states. EPA is identifying emissions within 27 states in the eastern United States that significantly affect the ability of downwind states to attain and maintain compliance with the 1997 and 2006 fine particle standards (NAAQS) and the 1997 Ozone NAAQS*".[2]

---

[2] USEPA, 2011, *Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals*, Federal Register, Volume 76, No 152, August 8, 2011.

Under CSAPR, as directed by the D.C. Circuit Court in its *North Carolina* decision, EPA must ensure that each state is reducing its portion of significant contribution. The WDNR acknowledges EPA's need to transition regulation of electric utilities from under CAIR to CSAPR in order to meet the legal test of addressing significant contribution. The WDNR believes EPA failed to address transport or the portion of emissions from each state actually contributing to nonattainment and interference of maintenance for the affected areas.

CSAPR relies on factors which Congress did not intend EPA to consider and fails to consider important aspects of the problem. EPA's reliance on cost as the sole factor in determining what constitutes a state's significant contribution to nonattainment or interference with maintenance violates the law. The Final Rule does not base the state emission budgets or variability limits on an individual state's actual contribution to nonattainment or interference with maintenance. EPA failed to consider what level of emission reduction is actually needed in each linked state in order to eliminate first contribution interferring with attainment and maintenance. Rather, EPA establishes the emission budgets and variability limits based solely on uniform cost thresholds of $500 and $2300 per ton of emissions reduced. 76 Fed. Reg. 48249. EPA's methodology in CSAPR concludes that the unlawful amount of pollution for each upwind-downwind linkage is that which can be eliminated by applying a uniform cost-threshold. Such an interpretation of the CAA is wrong, illegal, and arbitrary and capricious.

Thus, a fundamental problem with the rule is that it does not consider each state's emission contribution when setting the state budgets or assurance provision caps. Rather, it sets the budgets and assurance provision caps for Group 1 states exclusively on the chosen cost thresholds of $500/ton ($NO_x$ and SO_2 in 2012) and $2,300/ton ($SO_2$ in 2014), which are uniformly applied. Group 2 states were set the same way for NO_x and SO_2 in 2012 but were only required to meet the $500/ton level in 2014 for SO_2.

In other words, EPA set the state emission budgets by determining "for specific cost per ton thresholds, the emission reductions that would be achieved in a state if all [covered units] . . . in that state used all emission controls and emission reduction measures available at that cost threshold." 76 Fed. Reg. at 48248. The result is that states that happen to have sources that are cheaper to control (based on EPA's model) end up with lower state budgets and lower assurance provision caps. While EPA did check to ensure that all (or at least most) air quality problems would be resolved at the chosen cost per ton figures, the actual contribution of each state was not considered in any way.

The result of this approach is inequitable and costly for Wisconsin and does not address the portion of contribution actually interfering with attainment and maintenance relative to other contributing states.

1. <u>EPA Cannot Accurately Assess Nonattainment and Maintenance Status Based on Incorrect Emission Projections.</u>

EPA cannot accurately assess future attainment and maintenance status of affected areas based on the current projected 2012 emissions. The WDNR has identified

a number of factual errors and assumptions used in projecting those emissions. The reasonable conclusion is to anticipate similar errors for other state projected emissions. These errors are compounded by the integrated nature of the electric utility operations as characterized by EPA's IPM; i.e. changing the characteristics of some generation units will also change the operation and emission levels of other generation units for which information is correctly portrayed. Ultimately, correcting this information may result in a significantly different design value for the monitors linked to Wisconsin. In other words incorrect inputs will result in incorrect results and emission budgets.

2. Nearby States Contribute Significantly More Than Wisconsin To Downwind $PM_{2.5}$ Nonattainment and Maintenance Problems, Yet Wisconsin is Required to Achieve Equal or Greater Emission Reductions

EPA included Wisconsin in the annual SO_2 and NO_x programs because of its modeled annual (and 24-hour[3]) $PM_{2.5}$ contributions to various receptors in Ohio, Michigan, Illinois and Indiana. Annual SO_2 and NO_x emissions contribute to $PM_{2.5}$ air quality levels. EPA's significant contribution threshold is 0.15 ug/m^3 for annual $PM_{2.5}$, meaning EPA assumes that states that have contributions below this amount are not "significantly contributing" to annual $PM_{2.5}$ nonattainment or maintenance problems in other states and are not included in the annual SO_2 and NO_x programs. 76 Fed. Reg at 48236, 48240-41. States that are above the threshold for a receptor are considered "linked" with that receptor because, according to EPA, they "significantly contribute" to that receptor's air quality problems.

Table 2 shows EPA emission estimates for the 2014 base case and CSAPR emission budgets. Table 3 shows the 2012 downwind annual $PM_{2.5}$ contributions under the base case for each of Wisconsin's "linked" receptors (i.e., those receptors where Wisconsin's contribution is above 0.15 ug/m^3) made by Wisconsin and four nearby states.

Table 2: 2014 Base Emissions (IPM modeled) and CSAPR Emission Budgets (tons)

State	2014 Base Emissions		2014 CSAPR Budgets		2014 Emission Rates Under CSAPR Budgets		2014 CSAPR % Reduction from 2014 Base	
	SO_2	NO_x	SO_2	NO_x	SO_2	NO_x	SO_2	NO_x
Illinois	137,522	54,665	124,123	47,872	0.23	0.09	10%	12%
Indiana	711,264	116,586	161,111	108,424	0.26	0.17	77%	7%
Michigan	265,611	64,475	143,995	57,812	0.36	0.14	46%	10%
Ohio	831,648	99,387	137,077	87,493	0.22	0.14	84%	12%
Wisconsin	124,861	36,903	40,126	30,398	0.16	0.12	68%	18%

[3] This petition refers only to the annual $PM_{2.5}$ data because that is the only data that is available in a usable form in the docket; however, Wisconsin would expect the 24-hour $PM_{2.5}$ data to show similar results.

As the data in these tables illustrates, Wisconsin's contribution to every one of its "linked" receptors is significantly lower than the contributions of all of its neighboring states to those same receptors. Yet the CSAPR still requires Wisconsin to eliminate almost 68% of its 2014 base case SO_2 emissions, while only requiring Illinois to reduce approximately 10% of its emissions. Likewise, Michigan is required to only reduce 46% of its emissions compared to the 2014 base case. Table 2 further shows that Wisconsin under CSAPR is required to reduce SO_2 emission rates substantially lower than all of the nearby states. The Wisconsin NO_x CSAPR emission rate is likewise lower than that of all states except Illinois. The EPA contribution data for the 24-Hour $PM_{2.5}$ Standard and Ozone 8-Hour Standard exhibit similar results.

Table 3: Wisconsin's and Nearby State Annual $PM_{2.5}$ Contribution (ug/m^3) – 2012 Base Case

Nonattainment Monitors							
Receptor No#	**State**	**County**	**WI**	**IL**	**IN**	**MI**	**OH**
390618001	OH	Hamilton	0.16	0.50	1.27	0.35	NA
390350038	OH	Cuyahoga	0.18	0.38	0.65	0.64	NA
390610014	OH	Hamilton	0.16	0.50	1.28	0.35	NA
261630033	MI	Wayne	0.23	0.42	0.70	NA	0.99
390350060	OH	Cuyahoga	0.18	0.38	0.66	0.64	NA
171191007	IL	Madison	0.16	NA	0.71	0.26	0.42
390350045	OH	Cuyahoga	0.18	0.38	0.66	0.64	NA
Maintenance Monitors							
Receptor No#	**State**	**County**	**WI**	**IL**	**IN**	**MI**	**OH**
180970081	IN	Marion	0.20	0.65	NA	0.41	0.95
390617001	OH	Hamilton	0.16	0.50	1.28	0.35	NA
180970083	IN	Marion	0.20	0.65	NA	0.41	0.95
390350065	OH	Cuyahoga	0.18	0.38	0.66	0.64	NA

Table 4 further compares emission reduction requirements in real terms between Wisconsin and the other contributing states. This data also shows that Wisconsin total emissions are lower in each case and under CSAPR will do emission reductions comparable to or greater than any of the other states.

Table 4. Wisconsin's and Nearby State Actual 2010 Emissions and 2014 CSAPR Emission Budgets

State	2010 Actual Emissions		2014 CSAPR Budgets		2014 CSAPR % Reduction from 2010	
	SO_2	NO_x	SO_2	NO_x	SO_2	NO_x
Illinois	220,093	76,299	124,123	47,872	44 %	37 %
Indiana	414,767	120,924	161,111	108,424	61 %	10 %
Michigan	242,188	76,130	143,995	57,812	41 %	24 %
Ohio	572,106	104,839	137,077	87,493	76 %	17 %
Wisconsin	109,472	33,289	40,126	30,398	63 %	9 %

The information demonstrates, that while Wisconsin's emissions levels are substantially below levels in nearby states, Wisconsin is being required to obtain percentage reductions, particularly in regards to SO_2, far beyond those required in other nearby states. This indicates that CSAPR does not equitably allocate reductions among states based upon the significance of emission contributions.

3. The CSAPR is Requiring Wisconsin To Offset Other States' Contributions

The CAA requires EPA to address contribution causing nonattainment or interference with maintenance. As the D.C. Circuit articulated in its *North Carolina* decision, EPA cannot force one state to clean up more than its own significant contribution in order to allow another state to clean up less. *North Carolina*, 531 F.3d at 921. That is what EPA is doing in the CSAPR as to Wisconsin.

As shown in Table 5 below, Wisconsin's significant contributions are all significantly lower than the nearby states' contributions at the $500/ton SO_2 control case (NO_x held at $500/ton). Further, in comparison to Wisconsin's highest base contribution of 0.23 ug/m^3 (Table 3) other states still have significantly higher remaining contribution. Therefore, Wisconsin is being required to reduce emissions while other states are not even controlling down to Wisconsin's base case contribution level. The result is that Wisconsin emissions are being used to offset emission reductions that would be necessary for other states to come down to the same contribution level.

Even given this inequity, EPA went further and included Wisconsin as a Group 1 state, meaning Wisconsin was required to ratchet down its SO_2 emissions even more in 2014. Table 6 shows the contributions in 2014 at the $2300/ton SO_2 control levels (NO_x held at $500/ton). As is obvious, Wisconsin's contributions are even lower, while all other states still have yet to meet Wisconsin's initial contribution levels. Once again this illustrates that the CSAPR does not first address those emissions actually impeding attainment or interfering with maintenance.

EPA asserts that the CSAPR complies with the *North Carolina* decision because it conducted modeling at the chosen cost thresholds and determined that virtually all downwind nonattainment and maintenance problems were remedied. 76 Fed. Reg. at 48270-71. EPA did not, however, ensure that one state was not being required to do more than its fair share, as Wisconsin is obviously being required to do. As the *North Carolina* Court explained, the "significant contribution" provision "gives EPA no authority to force an upwind state to share the burden of reducing other upwind states' emissions." *North Carolina*, 531 F.3d at 921. This data shows that EPA is doing just that; it is requiring Wisconsin to be more than just a "good neighbor," it is requiring Wisconsin to offset the contributions made by its nearby states.

Table 5: Wisconsin's and Nearby State SO_2Contributions (ug/m^3) - $500/ton

Nonattainment Monitors							
Receptor No#	**State**	**County**	**WI**	**IL**	**IN**	**MI**	**OH**
390618001	OH	Hamilton	0.08	0.20	0.57	0.25	NA
390350038	OH	Cuyahoga	0.09	0.15	0.31	0.38	NA
390610014	OH	Hamilton	0.08	0.20	0.57	0.26	NA
261630033	MI	Wayne	0.11	0.14	0.28	NA	0.40
390350060	OH	Cuyahoga	0.09	0.15	0.31	0.38	NA
171191007	IL	Madison	0.09	NA	0.34	0.19	0.21
390350045	OH	Cuyahoga	0.09	0.15	0.31	0.38	NA
Maintenance Monitors							
Receptor No#	**State**	**County**	**WI**	**IL**	**IN**	**MI**	**OH**
180970081	IN	Marion	0.10	0.25	NA	0.27	0.44
390617001	OH	Hamilton	0.08	0.20	0.57	0.26	NA
180970083	IN	Marion	0.10	0.25	NA	0.27	0.44
390350065	OH	Cuyahoga	0.09	0.15	0.31	0.38	NA

Contribution Data Source: EPA docket: EPA-HQ-OAR-2009-0491, spreadsheet "annualPM25 AQAT.xlsx", page 500CT, species AMMS

Table 6: Wisconsin's and Nearby State SO_2 Contributions (ug/m^3) - $2300/ton

Nonattainment Monitors							
Receptor No#	**State**	**County**	**WI**	**IL**	**IN**	**MI**	**OH**
390618001	OH	Hamilton	0.07	0.19	0.49	0.21	NA
390350038	OH	Cuyahoga	0.09	0.15	0.27	0.32	NA
390610014	OH	Hamilton	0.07	0.20	0.49	0.21	NA
261630033	MI	Wayne	0.10	0.14	0.24	NA	0.31
390350060	OH	Cuyahoga	0.09	0.15	0.27	0.33	NA
171191007	IL	Madison	0.08	NA	0.29	0.16	0.16
390350045	OH	Cuyahoga	0.09	0.15	0.27	0.33	NA
Maintenance Monitors							
Receptor No#	**State**	**County**	**WI**	**IL**	**IN**	**MI**	**OH**
180970081	IN	Marion	0.09	0.25	NA	0.23	0.36
390617001	OH	Hamilton	0.08	0.20	0.49	0.21	NA
180970083	IN	Marion	0.09	0.25	NA	0.23	0.36
390350065	OH	Cuyahoga	0.09	0.15	0.27	0.33	NA

Contribution Data Source: EPA docket: EPA-HQ-OAR-2009-0491, spreadsheet " annualPM25 AQAT.xlsx, page 2300CT, species AMMS

4. EPA Did Not Clearly Identify Wisconsin's Portion of Contribution of Emissions Interfering with Attainment and / or Maintenance

EPA did not clearly define the basis for including Wisconsin in Group 1 for SO_2. EPA chose the SO_2 group designations by assessing the resulting downwind air quality at the various nonattainment and maintenance receptors after assuming the reductions modeled at the $500/ton threshold occurred in all states found to be linked to those

downwind sites and the states hosting those downwind sites. Because all air quality problems at the downwind sites were not resolved at the $500/ton threshold, EPA then placed all states that were linked to the remaining nonattainment sites in Group 1.

The problem is that EPA determined whether or not a state was "linked" with the downwind receptor by relying on the 2012 baseline data—not the $500/ton data. Such an approach is inequitable and unlawful for states like Wisconsin that have relatively minor contributions but happen to be contributing to the same receptor as states with large contributions that were not resolved at the $500/ton threshold.

5. EPA Did Not Account for Actual Conditions in Determining Emission Reduction Requirements that Address Impeding Nonattainment and Interfering with Maintenance

EPA projects future baseline emissions without CAIR in place. The reality is that CAIR is in affect until it is replaced by the CSAPR or another rule as directed by the *North Carolina* decision. According to EPA under the base case without CAIR utilities will substantially increase emissions through such actions as switching to higher sulfur coals and lowering existing pollution equipment operating levels. This condition has not actually come to existence and therefore Wisconsin's contribution or other states' contributions will likely not be as high as currently characterized by EPA evaluations.

In addition, EPA used 2012 base emissions as the reference for identifying monitors exceeding the standards. This approach does not account for emission reductions that will occur by 2014 through other existing requirements (i.e. consent decrees for pollution control equipment). The end result is that EPA identifies monitors exceeding the standards without accounting for existing conditions. This point is illustrated by the fact that the monitors linked to Wisconsin currently exhibit design values all meeting the air quality standards addressed by CSAPR, Tables 7 - 9.

Table 7: 2006 $PM_{2.5}$ Daily NAAQS For Which Wisconsin Contributes To Attainment Or Maintenance Issues

State	County	Monitor ID	Monitor Address	2008 - 2010 $PM_{2.5}$ Design Value
IL	Cook	170310052	4850 WILSON AVE.	31
IL	Cook	170311016	50TH ST. AND GLENCOE	33
IL	Cook	170312001	12700 SACRAMENTO	28
IL	Cook	170313301	60TH ST. & 74TH AVE.	32
IL	Cook	170316005	13TH ST. & 50TH AVE.	30 [a]
IN	Lake	180890022	201 MISSISSIPPI ST., IITRI BUNKER	31
IN	Lake	180890026	25TH AND BURR STREET	33
MI	Wayne	261630019	11600 EAST SEVEN MILE ROAD	30
MI	Wayne	261630033	2842 WYOMING	32

[a] Incomplete data for design value calculation

Table 8: 1997 $PM_{2.5}$ Annual NAAQS For Which Wisconsin Contributes To Attainment Or Maintenance Issues

State	County	Monitor ID	Monitor Address	2008 - 2010 $PM_{2.5}$ Design Value
IL	Madison	171191007	23RD & MADISON	13.8
IN	Marion	180970081	3351 W. 18TH ST., SCHOOL 90	13.6
IN	Marion	180970083	2302 E. MICHIGAN ST., SCHOOL 15	13.2
MI	Wayne	261630033	2842 WYOMING	12.3
OH	Cuyahoga	390350038	2547 ST TIKHON	13.6
OH	Cuyahoga	390350045	4950 BROADWAY AVE.	12.9
OH	Cuyahoga	390350060	E. 14TH & ORANGE	13.4 [a]
OH	Cuyahoga	390350065	4600 HARVARD AVE.	13.4
OH	Hamilton	390610014	SEYMOUR & VINE ST.	14.4
OH	Hamilton	390617001	2059 SHERMAN AVE.	13.6
OH	Hamilton	390618001	300 MURRAY RD.	15.1 [a]

[a] Incomplete data for design value calculation

Table 9: 1997 O_3 8-Hour NAAQS For Which Wisconsin Contributes To Attainment Or Maintenance Issues

State	County	Monitor ID	Monitor Address	2008 - 2010 O_3 Design Value
MI	Allegan	260050003	HOLLAND	74 ppb

D. FIP vs. SIP

It is well established and understood that whenever EPA determines that SIPs need to be amended to meet new federally-mandated targets, the states get the "first cut" at the SIP process. As the U.S. Supreme Court stated this year: "The Act envisions extensive cooperation between federal and state authorities, generally permitting each State to take the first cut at determining how best to achieve EPA emissions standards within its domain." *Am. Elec. Power Co. v. Connecticut*, 131 S. Ct. 2527, 2539 (U.S. 2011) (internal citations omitted).

This has not happened with the final CSAPR. Just as the states learned of their new federally-mandated targets, EPA issued FIPs mandating site-specific allowance allocations to meet those targets. EPA's rationale for this unexpected and unprecedented curtailment of the states' "first cut" rights, was two-fold: (1) the CAA's "plain language;" and (2) a concern expressed in the *North Carolina* decision that EPA not wait too long to fix the problems with CAIR. 76 *Fed. Reg.* 48208 at 48219-20 (August 8, 2011). Both rationales, however, are incorrect.

As to EPA's "plain language" rationale, we point out that the plain language of the CAA clearly supports the view that states should now have the "first cut" to develop SIPs. The language of CAA § 110(k)(5) is clear on this issue:

(5) Calls for plan revisions. Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184 or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions.

In its final preamble and final Response to Comments document, EPA relies on various provisions of CAA § 110 requiring EPA to issue a FIP within certain deadlines. EPA's explanation of its theory as related to the Wisconsin SIP is representative of its overall theory:

On April 25, 2005 EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 $PM_{2.5}$ NAAQS (70 FR 21147) and has not, subsequent to that date received and approved a SIP revision to correct the deficiency. On June 19, 2007, Wisconsin submitted an abbreviated CAIR SIP to, among other things, modify the CAIR FIP for the 1997 $PM_{2.5}$ NAAQS for Wisconsin. As noted in the preamble to the Transport Rule, the abbreviated SIPs approved by EPA on October 16, 2007 (72 FR 58542), modified but did not replace the CAIR FIPs promulgated by EPA. Following approval of the abbreviated CAIR SIP, the CAIR FIP remained the legal vehicle for implementation of the CAIR ozone-season requirements in Wisconsin. The CAIR FIPs were found unlawful and remanded to EPA to be replaced by rules consistent with the D.C. Circuit decision in North Carolina. EPA's approval of an abbreviated CAIR SIP thus has no impact on EPA's authority and obligation to promulgate a FIP to correct the 110(a)(2)(D)(i)(I) deficiency identified in the April 25, 2005 finding of failure to submit. In addition, on June 9, 2010, EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i)(I) deficiency with respect to the 2006 $PM_{2.5}$ NAAQS (75 FR 32673) and has not, subsequent to that date received and approved a SIP that corrects the deficiency. Based on these facts, the provisions of section CAA 110(c)(1) establish that the Administrator shall promulgate FIPs for the state of Wisconsin addressing the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 $PM_{2.5}$ NAAQS and 2006 $PM_{2.5}$ NAAQS.

EPA's logic, while well explained, is not based upon the plain language in the CAA. Moreover, a critical flaw weakens EPA's reasoning: that being, the incorrect assumption that a FIP clock must start running, and continue running, even when the states do not know what they are supposed to do to correct alleged deficiencies.

SIPs may have been deemed "deficient" over the past few years, but only because EPA's CAIR rule was held deficient. States could not even know how to develop an approvable SIP until EPA finally set state budgets in the final CSAPR last month. EPA has finally established new federal requirements to be implemented through a SIP (the state budgets) and now, following the plain language of CAA § 110(k)(5) quoted above, "the Administrator shall require the State to revise the plan as necessary to correct such inadequacies."

As to EPA's rationale based on the *North Carolina* decision, there is nothing in the initial opinion or the follow-up opinion that speaks to the issue of whether EPA can or should force FIPs on the states without allowing states to take the "first cut." Moreover, there is nothing in

either opinion indicating that EPA should act with such extreme haste that it annuls the traditional time period allowed for the states' first cut.

The Court in fact explicitly refused to impose any deadlines regarding EPA's follow-up rulemaking. 550 F.3d at 1176. The Court stated: "Our opinion revealed CAIR's fundamental flaws, which EPA must still remedy." *Id.* EPA simply cannot rely upon the Court's ruling to justify its new "FIP First" approach.

Whatever obligation states may have had to revise their SIPs to comply with CAIR, the *North Carolina* decision rejected CAIR. EPA has been working since that time to issue replacement rules, Thus, states would have been spinning their wheels developing SIPs designed to comply with a rule that the DC Circuit Court had rejected.

The appropriate mechanism for EPA to have used when making the significant contribution and interference with maintenance findings would have been a "SIP Call." The Proposed Rule -- unlike the NO_x SIP Call and CAIR -- is not a SIP Call. Rather, EPA chose to make the finding significant contribution to nonattainment or interference with maintenance of a downwind NAAQS and simultaneously impose a FIP upon the State of Wisconsin requiring drastic emission reductions based on the modeling of impacts in other states. The State of Wisconsin was not issued a SIP Call requiring it to revise its SIP to address interstate transport, which would have been the appropriate mechanism, instead of a FIP. Wisconsin suggests EPA reconsider its position in this regard.

CONCLUSION

EPA's final CSAPR is factually and legally insupportable as applied to Wisconsin. Failure to correct these problems will force immediate and costly rate increases on Wisconsin's citizens and the state. Thus at a bare minimum, Wisconsin submits that EPA should stay the rule as to Wisconsin while it conducts additional notice-and-comment rulemaking on Wisconsin's annual state budgets for SO_2 and NO_x.

Sincerely,

Matt Moroney, Deputy Secretary
Department of Natural Resources

cc: Thomas Dawson, Wisconsin Department of Justice
Ms. Meg Victor, Clean Air Markets Division, USEPA
Ms. Sonja Rodman, Office of General Counsel, USEPA