



September 13, 2011

Lisa P. Jackson, Administrator  
U.S. Environmental Protection Agency  
Air and Radiation Docket  
Mail Code 6102T  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Connecticut  
Delaware  
District of Columbia

RE: Proposed Rule – Docket No. EPA-HQ-OAR-2010-1076

Maine

Dear Administrator Jackson:

Maryland  
Massachusetts  
New Hampshire  
New Jersey  
New York

The Ozone Transport Commission (OTC) appreciates the opportunity to provide comments on the Environmental Protection Agency's (EPA's) July 15, 2011 proposed rule entitled "Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver" (40 CFR 51, 76 FR 41731), (the "Widespread Use Rule"). OTC endorses and supports the comments on this proposal offered by the Northeast States for Coordinated Air Use Management (NESCAUM), and would like to offer further comment on issues related to: 1) EPA guidance regarding the implementation of the rule throughout the Ozone Transport Region (OTR); 2) coordination between OTC and EPA regarding State Implementation Plan (SIP) incorporation of EPA's proposal; and 3) maintenance of Stage II systems.

Pennsylvania  
Rhode Island  
Vermont

EPA guidance regarding the implementation of the rule throughout the Ozone Transport Region: Section 184 of the Clean Air Act requires that OTC states adopt (or maintain) Stage II controls, or achieve emission reductions comparable to those achieved by the Stage II program. EPA has indicated that in calculating comparable reductions, States cannot count federally mandated programs. EPA last issued guidance on this issue in 1975, and this guidance is now obsolete and must be revisited. We appreciate that EPA has indicated that it will issue new guidance to the OTR upon promulgation of the rule.

Virginia

OTC urges EPA to release clear and detailed guidance to the OTR jurisdictions on this issue in a timely fashion. Specifically, OTC urges EPA to release this guidance prior to the promulgation of the Widespread Use Rule, and to clarify in the guidance what comparable measures may be counted and how to conduct the comparability analysis. OTC also requests that EPA provide clear and consistent guidance as to the appropriate base year that should be used for the demonstrations of equivalency.

William L. Driscoll  
Executive Director

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OTC also requests the opportunity to comment on EPA's draft OTR guidance document before it is finalized by EPA, and urges EPA to continue to coordinate with OTC and the OTR jurisdictions to help resolve any questions and issues that might arise from the guidance and implementation of the proposed rule.

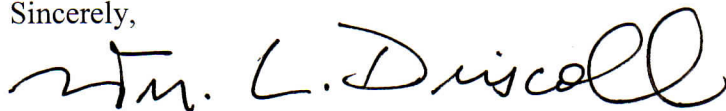
Coordination between OTC and EPA regarding State Implementation Plan (SIP) incorporation of EPA's proposal: EPA's proposal also raises concerns for the OTR jurisdictions about how to incorporate the proposed rule into SIPs. OTC urges EPA to provide clear guidance to OTR jurisdictions as to what is needed to ensure that the integrity of the SIP is maintained upon a SIP revision that removes Stage II controls. We request that EPA provide guidance on requirements that must be addressed in the SIP revision to remove the Stage II program, including but not limited to the requirements of Clean Air Act Sections 110(l), 184(b)(3), 184(b)(2) and 193.

Further, the proposed rule indicates that before EPA could approve a SIP revision removing Stage II controls, states in the OTR would need to have adopted measures that achieve emissions reductions that are at least equivalent to those achievable by Stage II controls, and incremental to ORVR emission reductions. OTC recommends that if a state can demonstrate that ORVR obtains VOC reductions equal to or more than Stage II systems (for example, due to incompatibility between ORVR vehicles and vacuum-assist Stage II systems), no additional measures should be required. The rule also indicates that EPA intends to provide additional guidance for OTR jurisdictions on how they can conduct updated comparability analyses. OTC recommends that as part of this guidance EPA require that states use the first phase-out year of the Stage II program as the baseline year.

Maintaining Stage II: For states that need additional VOC emission reductions to attain the ozone NAAQS and address environmental justice or toxic concerns, OTC recommends that EPA continue to allow states to maintain the option to keep Stage II and be clear on what is required to maintain a Stage II program moving forward. While states have this option, OTC believes that EPA should address issues related to quantifying excess emissions that may occur when refueling ORVR equipped vehicles at gasoline stations using vacuum-assist Stage II technology, as well as potential excess emissions from the removal of Stage II systems.

Conclusion: EPA's proposal provides a framework for the states to follow while they evaluate further strategies to reduce emissions of volatile organic compounds. We appreciate that the proposed rule provides states with flexibility in evaluating and selecting these strategies, to reflect the conditions unique to each nonattainment area, rather than mandating a specific approach. With our suggested clarifications, EPA could further facilitate compliance by the OTR states. We would be pleased to respond to any questions EPA may have; you may contact me at (202) 508-3840.

Sincerely,



William L. Driscoll  
Executive Director