

Misc - ptoba 50



# WISCONSIN LEGISLATURE

P.O. BOX 8952 · MADISON, WI 53708

June 11, 1999

Honorable Tommy G. Thompson  
Governor, State of Wisconsin  
125 South State Capitol Building  
Madison, WI 53702

Dear Governor Thompson,

On May 26, a three-judge panel of the U.S. Circuit Court of Appeals for the District of Columbia stayed the U.S. Environmental Protection Agency's nitrogen oxide state implementation plan (NOx SIP) call pending further court action.

As you are well aware, Wisconsin is one of 22 states subject to the EPA's NOx SIP call. The court's action last week, however, freed states of the obligation to submit plans for the reduction of nitrogen oxides to reduce inter-state ozone transport.

In light of the court's ruling, there is no justification for Wisconsin to continue preparations for the SIP call. We believe that until further action is taken in this federal case - action expected after further arguments are heard by the court in September of this year - continuing would be a misuse of state time, effort and resources. It is only prudent to await the outcome of the lawsuit currently pending before the court.

In no way does our request imply an unconcern with Wisconsin's air quality. On the contrary, we applaud the efforts made by Wisconsin residents and businesses to reduce ground-level ozone in the state. We believe that reasonable reductions of ozone and other air pollutants, based on sound science, are important factors in maintaining Wisconsin's high quality of life.

Thank you for your attention to this important matter.

Sincerely,

**Robert Welch**  
14<sup>th</sup> Senate District

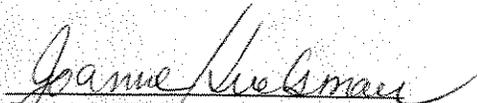
**Neal Kedzie**  
43<sup>rd</sup> Assembly District



Governor Tommy G. Thompson  
June 11, 1999; page 2



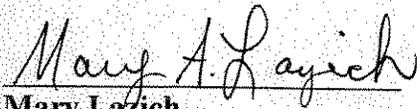
Scott Jensen  
32nd Assembly District



Joanne Huelsman  
11<sup>th</sup> Senate District



DuWayne Johnsrud  
96<sup>th</sup> Assembly District



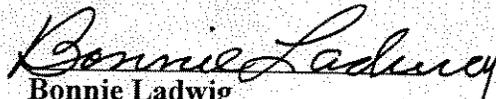
Mary Lazich  
28<sup>th</sup> Senate District



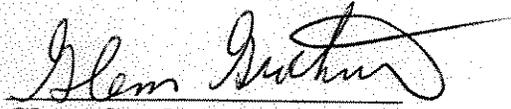
Jeff Stone  
82<sup>nd</sup> Assembly District



Margaret Farrow  
33<sup>rd</sup> Senate District



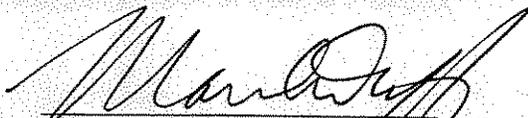
Bonnie Ladwig  
63<sup>rd</sup> Assembly District



Glenn Grothman  
59<sup>th</sup> Assembly District



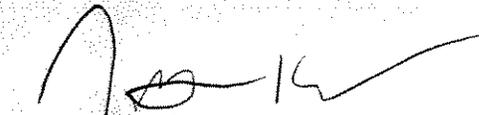
Lorraine Seratti  
36<sup>th</sup> Assembly District



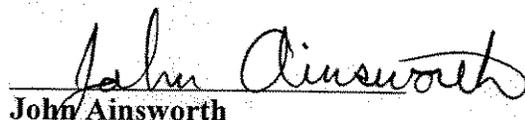
Marc Duff  
98<sup>th</sup> Assembly District



Suzanne Jeskewitz  
24<sup>th</sup> Assembly District



Scott Walker  
14<sup>th</sup> Assembly District



John Ainsworth  
6<sup>th</sup> Assembly District

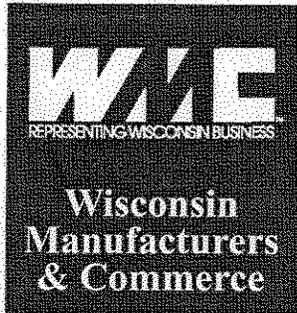


Judith Klusman  
56<sup>th</sup> Assembly District



Phil Montgomery  
4<sup>th</sup> Assembly District

Cc: George Meyer, Secretary  
Department of Natural Resources



Wisconsin Manufacturers' Association • 1911  
Wisconsin Council of Safety • 1923  
Wisconsin State Chamber of Commerce • 1929

James S. Haney  
President

James A. Buchen  
Vice President  
Government Relations

James R. Morgan  
Vice President  
Education and Programs

Michael R. Shoys  
Vice President  
WMC Service Corp.

TO: Wisconsin State Legislators  
FROM: Patrick Stevens, Director of Environmental Policy  
DATE: July 6, 2000  
RE: Proposed DNR regulation that will Impact your District

The Department of Natural Resources (DNR) is proposing to bring some unnecessary and unpopular air regulations to your district. I am writing this memorandum to ensure you are aware of a Department of Natural Resources' proposed rule package that will impact your district. **Comments are due to the DNR by July 14, 2000. If you are concerned about this rule package we encourage you to submit comments to the DNR within the comment deadline.**

#### BACKGROUND

The DNR is required to submit a plan to the EPA in December of 2000 demonstrating how Wisconsin will meet the ozone (smog) air quality standard in Kenosha, Racine, Milwaukee, Ozaukee, Washington and Waukesha counties by 2007. Furthermore, EPA contends Wisconsin must also submit a plan for obtaining a 48% reduction in emissions from a 1990 baseline (referred to as Rate of Progress requirements). In addition to these requirements, DNR has proposed regulations for the rest of the state, arguing that these areas must be regulated to ensure Wisconsin continues to maintain the standard once it is achieved. **WMC believes that much of DNR's proposal goes beyond what is required by federal law, and has the potential to seriously impact economic development in Wisconsin.**

#### DNR'S PROPOSAL

Initially, it is important to know that, **according to the DNR, Wisconsin will meet the ozone standard without getting ANY additional mandates in Wisconsin.** Wisconsin will meet the standard because other states that are impacting Wisconsin's air quality are required to reduce their emissions under federal law. In spite of this fact, DNR has proposed the following regulations in the following areas of the State (see attached map):

- **Primary Ozone Control Region.** This area will be subject to the most stringent regulations. In addition to the six-county severe nonattainment area, this region includes Manitowoc, which is considered a moderate nonattainment area, and Sheboygan and Keweenaw counties, which are both designated as attainment. These regulations target NOx sources, which generally are utility and non-utility boilers.

In order to meet Rate of Progress requirements, the draft rule would require existing large NOx sources to install pollution control equipment, and smaller sources to modify their operations to decrease their emissions.

For the so-called "maintenance" requirements, DNR would target very small new and modified sources. These smaller sources must meet certain performance standards and obtain offsets. Offsets are reductions in emissions obtained from other sources to offset the proposed emissions from the new or modified source. **If these offsets cannot be obtained, companies or other organizations (including public facilities such as schools) have to locate or expand elsewhere.**

• **Secondary Ozone Control Region.** The same maintenance requirements that are applicable in the Primary Ozone Control Region are applicable here. However, the Rate of Progress requirements do not apply.

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- **Ozone Maintenance Region.** Only the maintenance requirement for new and modified sources to meet performance standards applies in this Region. The requirement for offsets does not apply.

### CONCERNS

WMC has numerous concerns regarding this rule package. Some basic concerns that we believe should be of interest to you are set forth below.

**Rule is not Necessary to Meet Attainment.** DNR has proposed this sweeping regulatory program that is not necessary to meet the ozone standard. DNR has indicated repeatedly that Wisconsin will meet the ozone standard when other states implement federally mandated NOx reductions. Given this circumstance, DNR should not be proposing a regulatory program that will impact all of Wisconsin.

**Maintenance Requirements.** DNR has proposed regulating the Secondary Ozone Control Region and the Ozone Maintenance Region for the sole reason of ensuring Southeastern Wisconsin continues to meet the ozone standard once it is reached. WMC strongly opposes all the maintenance provisions contained in this rule package because:

- **The Clean Air Act does not require these regulations.** In a December 16, 1999 Federal Register, EPA set forth what must be contained in Wisconsin's attainment plan. This notice does not require the submittal of a maintenance plan. The Clean Air Act simply does not require, for example, the regulation of Ashland and Bayfield counties to meet concerns regarding southeastern Wisconsin's air quality.
- **Other Clean Air Act provisions ensure the standard is maintained once it is achieved.** For example, DNR is required to file a formal maintenance plan at the time it requests EPA redesignate Southeastern Wisconsin to attainment.
- **DNR has failed to show that any such maintenance plan is necessary to maintain the standard.** DNR has failed to demonstrate the amount of growth that would be necessary, and where that growth would have to occur, to cause southeastern Wisconsin to exceed the standard once it is achieved. DNR has also failed to show why the current regulations that are in place throughout the state, such as the Clean Air Act "Prevention of Significant Deterioration" provisions, and regulations that will be implemented in the future, are insufficient to maintain the standard. Furthermore, DNR has failed to take into account the excess emission reductions that will occur if the Rate of Progress requirements of this package are implemented.

**Offsets.** We are VERY concerned regarding the offset provisions DNR has proposed. If these offsets are not available, companies simply will not be able to locate or expand in the Primary and Secondary Ozone Control Regions. By our estimates, this requirement for offsets would be tripped by a furnace or boiler needed to heat about a 50,000 square foot building. WMC is concerned about whether these offsets will be available, and if so, at what cost. We do not believe a business that may need to increase emissions in the future is likely to make its excess emission reductions available for sale. We are also concerned about what this requirement will do to DNR's already problematic permitting program. It appears that some of the companies that would be required to obtain offsets are below DNR's permitting thresholds.

Please join WMC and oppose these unnecessary requirements that will impact your constituents.





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## *Ozone Transport SIP Call*

“The NO<sub>x</sub> SIP Call”



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## *The NO<sub>x</sub> SIP Call*

- ◆ What is it?
  - ◆ Implements OTAG Recommendations
  - ◆ Finding of Significant Contribution Under Section 110(a)(2)(D)(i)(I) of the Clean Air Act
  - ◆ Notice to 22 States and Washington D.C. that Their SIPs Are Inadequate and Calls for Revisions
  - ◆ Targets NO<sub>x</sub> Emission Reductions through Ozone Season Emission Caps



## *The NO<sub>x</sub> SIP Call*

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- ◆ Implications for Wisconsin
  - ◆ Addresses Transport
  - ◆ Eases Burden on Nonattainment Areas
  - ◆ Improves Air Quality Statewide



## *The NO<sub>x</sub> SIP Call*

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- ◆ Air Quality Benefits
  - ◆ 61 Million People in 1-Hour Ozone Nonattainment Areas
  - ◆ 73 Million People in Potential 8-Hour Ozone Nonattainment Areas
  - ◆ PM<sub>2.5</sub>
  - ◆ Regional Haze
  - ◆ Acid Rain
  - ◆ Global Warming



## *The NOx SIP Call*

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### ◆ Affected States

- ◆ Alabama, Connecticut, District of Columbia, Delaware, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.



## *The NOx SIP Call*

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*see OTAG Map*



## *The NOx SIP Call*

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### ◆ Summary

- ◆ Significant Contribution - Collective Contribution from All Sources in a State
- ◆ Weight of Evidence
  - Magnitude of Impact
  - Frequency of Impact
  - Availability of Highly Cost Effective Controls



## *The NOx SIP Call*

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### ◆ Summary (Continued)

- ◆ EPA Established a NOx Budget or a Cap Starting in 2003
- ◆ States Have Flexibility for Meeting the Budget
- ◆ Compliance Supplemental Pool Created to Address Electric Power Reliability
- ◆ Banking & Trading



## *The NOx SIP Call*

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### ◆ NOx Emission Reduction Requirement

#### ◆ Regional Total

- Base Emission	4,179,751 tons/season
- <u>Budget</u>	<u>3,023,113 tons/season</u>
- Difference	1,156,638 tons/season



## *The NOx SIP Call*

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### ◆ NOx Emission Reduction Requirement

#### ◆ Wisconsin

- Base Emissions	145,391 tons/season
- <u>Budget</u>	<u>106,540 tons/season</u>
- Difference	38,851 tons/season

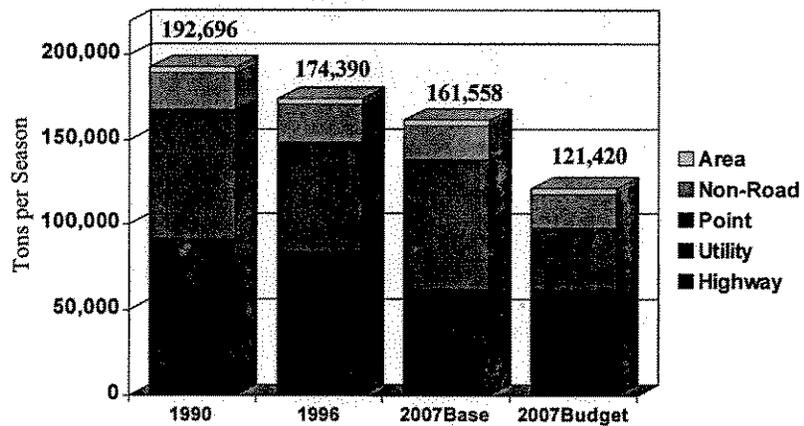


## The NOx SIP Call

see WI NOx Budget Slide



## NOx Emissions Trend Wisconsin 153-Day Summer Totals



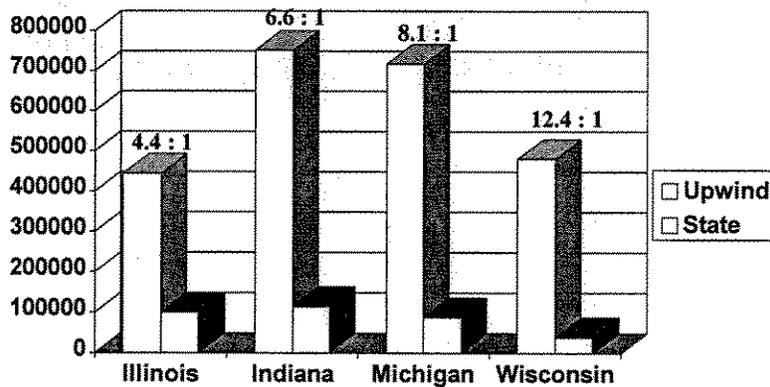


## The NOx SIP Call

- ◆ Midwest and Lake Michigan Region - Impact and Reductions Comparison
  - ◆ Wisconsin Adversely Affects Michigan
    - Wisconsin's Reduction = 38,851 tons/season
  - ◆ Alabama, Illinois, Indiana, Kentucky, Missouri, Tennessee Adversely Affect Wisconsin
    - 6 State Reduction = 480,871 tons/season



## SIP Call NOx Reductions Upwind Regions vs. State (in tons)





## *The NOx SIP Call*

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### ◆ Budget Calculation

- ◆ Baseline Emissions Grown to 2007
- ◆ Highly Cost Effective Controls (< \$2,000/ton)
- ◆ Applied Controls
  - Power Plants            0.15 lb/MMBTU
  - Large Industrial
    - Boilers & Turbines        60%
    - Stationary IC Engines    90%
    - Cement Mfg.              30%



## *The NOx SIP Call*

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### ◆ Budget Calculation (Continued)

- ◆ Applied Controls
  - Medium & Small Ind. CAA Controls
  - Highway Mobile            NLEV & HDD Standards
  - Off-Road Mobile            CAA Controls
  - Area                         CAA Controls
- ◆ Controls in NOx Waiver Areas
  - Controls for Large Point Sources
  - No I/M NOx Cutpoints



## *The NO<sub>x</sub> SIP Call*

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- ◆ Supplemental Compliance Pool
  - ◆ 200,000 tons - SIP Call Region
  - ◆ 6,717 tons - Wisconsin
  - ◆ Voluntary Provision
  - ◆ Two Year Lifetime
  - ◆ Two Ways to Access
    - Early Reductions
    - Demonstrate Need



## *The NO<sub>x</sub> SIP Call*

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- ◆ Findings of Modeling Analyses
  - ◆ SIP Call Produces Large Reductions in 1-Hour and 8-Hour Ozone Concentrations
  - ◆ More Reductions = More Benefits
  - ◆ Disbenefits Limited Compared to Benefits
  - ◆ SIP Call Reduces Concentrations in Nonattainment Areas, but Nonattainment May Persist



## *The NOx SIP Call*

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- ◆ EPA's Response to Comments
  - ◆ Final SIP Slightly Less Stringent than Proposal
  - ◆ 1 Year to Develop Plan
  - ◆ Final Compliance by May, 2003 & Created Compliance Supplemental Pool to Address Reliability (Budgets Fully in Place by 2005)
  - ◆ Statewide Geographic Scope
  - ◆ Inventory Not Fully Corrected - States Have 60 Days for Final Corrections



## *The NOx SIP Call*

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- ◆ EPA's Response to Comments (Continued)
  - ◆ Wisconsin Has 14% Growth for Utility Emissions
  - ◆ Growth in Some Neighboring States Reduced
  - ◆ Further Investigation of Iowa Emissions
  - ◆ No CEMs Required for Industrial Sources
  - ◆ Industrial Sector Budgets Higher than Expected



## *The NOx SIP Call*

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### ◆ NOx Waiver

- ◆ No Change to NOx Waivers Now
- ◆ EPA to Review NOx Waivers w/ Attainment Plans Submitted in April 1998



## *The NOx SIP Call*

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### ◆ Trading

- ◆ Allocate Credits One Year at a Time
- ◆ Allocate Credits Three Years in Advance
- ◆ Default Allocations in FIP
- ◆ Important Issues
  - Allocating Growth & New Source Review
  - Initial Allocation of Credits
  - Allocating Compliance Supplemental Pool



## *The NOx SIP Call*

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- ◆ Federal Implementation Plans
  - ◆ NPR on FIP for NOx SIP Call
  - ◆ Unusual to Promulgate Generic FIP
  - ◆ FIP Closely Mirrors Budget Calculation
  - ◆ Focused on Federally-Operated Trading Program
  - ◆ Significant Downside if Promulgated



## *The NOx SIP Call*

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- ◆ 126 Petitions
  - ◆ NPR on 126 Petitions
  - ◆ 8 Northeast States Filed Petitions
  - ◆ 7 Judged Credible
  - ◆ Backstop for 110 SIP Call
  - ◆ Wisconsin Insignificant Contribution in Petitioning States





## *The NOx SIP Call Responses from Other States*

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- ◆ **Illinois** - Likely to Implement SIP Call
- ◆ **Indiana** - Investigating Other Control Possibilities
- ◆ **Michigan** - Lawsuit & Implement SIP
- ◆ **Missouri** - Will Implement SIP Call
- ◆ **Kentucky** - Likely to Implement SIP Call
- ◆ **Tennessee** - Considering Controls for Medium Size Sources
- ◆ **New Jersey** - Phase III OTC MOU
- ◆ **Maryland** - Implement SIP Call
- ◆ **Pennsylvania** - Implement SIP Call
- ◆ **Georgia** - Implement SIP Call & Try to Get Credit for Low Sulfur Fuel
- ◆ **North Carolina** - Likely to Follow SIP Call
- ◆ **Alabama** - Don't Know (Sue, Comply, FIP)

— Discussion Paper —

EPA's NO<sub>x</sub> SIP Call—*A Wisconsin Perspective*  
(November 6, 1998)

**Background.** On October 27, 1998, EPA issued its final NO<sub>x</sub> SIP Call. This rule requires 22 states, including Wisconsin, to submit State Implementation Plans ("SIPs") that substantially reduce emissions of nitrogen oxides ("NO<sub>x</sub>") from utility and large industrial boilers. The Wisconsin Department of Natural Resources (DNR) is currently proposing that the state fully comply with EPA's rule. Another option, which could be undertaken in conjunction with developing an "approvable" SIP, is for Wisconsin to participate in the judicial review of EPA's rule being initiated by other states such as Michigan. This participation need not attack the underlying need for regional controls, and may be the only means to address Wisconsin-specific concerns.

**Wisconsin's Position.** The State of Wisconsin submitted comments on EPA's draft rulemaking on June 25, 1998, making the following key points:

- In part, because "the proposed time line places electric reliability at risk," Wisconsin advocated a phased approach, with a year-2007 final compliance date. EPA rejected this approach and instead promulgated a compliance deadline of May 1, 2003.
- Because of "insufficient evidence to apply the SIP call to all of Wisconsin," the State requested EPA consider excluding the northern part of the state from the state budget calculations. EPA rejected this request and promulgated a NO<sub>x</sub> budget for the entire state.

**Other States' Response.** The states of Michigan and West Virginia filed petitions against EPA on October 30, 1998. South Carolina, Alabama, Ohio, Virginia, and several other states are reported to be seriously considering litigation as well. Industry and labor groups, including the Utility Air Regulatory Group and the United Mine Workers, have or will shortly file suit challenging EPA's decision. Thus, the final outcome of EPA's efforts is far from clear.

Wisconsin has a critical stake in these legal debates. We can ill afford allowing other states to establish the SIP Call implementation framework through litigation while we idly watch. In the worst of all worlds, which DNR's recommendations would allow, Wisconsin merely implements EPA's rule without question, while other more culpable states obtain relief.

**Wisconsin's Stake.** Rather than merely accepting EPA's rejection of the above Wisconsin positions, the State should evaluate the merits of participating in the judicial review of EPA's decision. For example, legal challenges by other states and industry groups will address the following issues of interest to Wisconsin:

- EPA's deadlines are not required by law, are not feasible, and cannot be justified by a proposed settlement with other states on their §126 petitions.
- EPA cannot find SIP deficiencies for the 8-hour ozone standard before 8-hour SIPs are required to be submitted — and before any 8-hour nonattainment areas have even been designated.

- EPA's interpretation of the Clean Air Act related to addressing a "significant" contribution is seriously flawed, including its failure to first define what is a significant contribution.

As noted in the State's comments, it is not reasonable for Wisconsin to develop its SIP rules, put them out for public comment, and obtain required legislative review by September 30, 1999. In order to comply with this deadline, DNR currently proposes to submit its "final" rules to EPA prior to legislative review and approval. In effect, the State Legislature is being presented a *fait accompli* in that the Legislature will have little or no ability to affect the SIP prior to EPA submittal. This is inconsistent with Wisconsin's prescribed administrative review process.

In addition, EPA has argued that the various SIP Call deadlines are necessary to meet its "settlement" with various states on Clean Air Act §126 petitions used to force reductions from upwind states. In light of EPA proposing to reject petitioners' inclusion of Wisconsin in these petitions, Wisconsin has an additional meritorious argument on EPA's deadlines.

The issue of whether the state "significantly contributes" to nonattainment in downwind states is also of particular interest to Wisconsin. EPA's required finding on contribution is that Wisconsin contributes to Michigan's nonattainment. (Most states are found by EPA to contribute to multiple states.) Based on the most recent air quality data, the entire State of Michigan is in attainment for the 1-hour standard. An EPA rulemaking in 1999 should formalize that attainment status, making the 1-hour standard no longer applicable to Michigan. Obviously, Wisconsin could argue that EPA has no legal basis for requiring a SIP based on contributions to nonattainment of the 1-hour standard in a state that has had that standard revoked.

In addition, with respect to the 8-hour standard, there is a sound argument that until EPA designates nonattainment areas under the 8-hour standard, EPA has no authority to require SIP submissions from upwind areas with respect to the 8-hour standard. Thus, under either rationale—its contribution to nonattainment of the 1-hour or 8-hour standard—EPA's authority to require a Wisconsin SIP as prescribed is tenuous.

The State of Wisconsin has other issues, such as emission growth rates, that will likely be litigated by Michigan and other states, as well as by industry groups. The question before the State is whether to participate in these proceedings that have critical implications for Wisconsin, or to merely put our fate in the hands of others who do not have any incentive to advocate for Wisconsin-unique positions.

*Should Wisconsin be an Island?* Letting others determine our destiny is particularly troubling considering Wisconsin has the best arguments for a relaxed, phased approach for NOx controls. (Wisconsin is a receptor state, more akin to Minnesota and Iowa — both excluded by EPA for this rule.) In addition, by not participating in any challenge to EPA's decision, either by petitioning itself or by intervening in other state cases, Wisconsin may irrevocably prejudice its ability to modify its SIP to take advantage of a subsequent ruling on issues of concern to Wisconsin. Should we submit without objection that SIP envisioned by DNR, and have EPA approve it, Wisconsin and its industries are locked into a federally binding SIP. The burdens on Wisconsin, then, may be greater than the burdens on other states if those states receive concessions in court or through related settlements with EPA. This would be patently unfair in light of Wisconsin's limited contribution to the interstate pollution problem.

Moreover, protecting Wisconsin's interests on this matter does not cause us to jeopardize the State's overall goal for regional ozone controls. For example, six states have been found by EPA to contribute to Wisconsin's current 1-hour nonattainment areas. Narrow arguments by Wisconsin on its contribution to Michigan, which unlike Wisconsin is in attainment, would not necessarily touch on those six contributing states' obligations to help Wisconsin. In any event, litigation will proceed with or without Wisconsin's participation.

In summary, Wisconsin — *consistent with its prior comments and current positions* — should consider the merits of participating in the legal review on the scope of EPA's SIP Call. The alternative, of course, is to accept a possible unjust outcome from this debate that reflects our lack of input.

#### ***Key Dates & Deadlines.***

- **October 27, 1998**—EPA promulgates final SIP Call rule
- **October 30-November 6, 1998**—Petitions begin to be filed in federal court challenging SIP Call rule
- **November 27 (or 30), 1998**—Deadline for intervening in Michigan case (assuming 30-day deadline from October 30 filing)
- **November 30, 1998**—Comment period deadline on related proposed EPA rules on Federal Implementation Plans and §126 Petitions
- **December 28, 1998**—Deadline for filing petitions challenging SIP Call
- **December 28, 1998**—Comments due EPA on proposed state NOx budgets
- **March – April 1999**—DNR issues final draft SIP rules for public comment
- **August – September 1999**—Decision expected by federal court in SIP Call litigation
- **September 30, 1999**—State NOx SIPs due to EPA, with promulgated implementing rules
- **May 1, 2003**—SIP Call controls implemented



## *Regional Ozone Transport Reduction*

### *US EPA's Proposed 110 SIP Call*



### *US EPA's Regional Ozone Transport Reduction Proposal*

#### *What is it?*

- ◆ Call by EPA to 22 States and D.C. for enforceable plans ("SIPs") to provide major reductions in statewide NO<sub>x</sub> emissions by 2002-2004 in order to reduce regional "background" ozone levels



## *Regional Ozone Transport Reduction*

### *110 SIP Call*

- ◆ Section 110 in the Clean Air Act
- ◆ Identifies states whose emissions “significantly contribute to nonattainment in another state”
- ◆ Implements OTAG Recommendations
- ◆ Establishes Ozone Season NO<sub>x</sub> Emissions Budget



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *Who's affected?*

- ◆ 22 States in Eastern U.S. (about 2/3 of OTAG)
- ◆ Budget covers all sectors, but focus is on major Point Sources of NO<sub>x</sub> including Utility Plants and large Industries Boilers/Furnaces/Engines
- ◆ Proposal presumes statewide reductions to meet statewide Budget





## *US EPA's Regional Ozone Transport Reduction Proposal*

### *What's the purpose?*

- ◆ Significantly lower the level of ozone and the pollutants that cause ozone (precursors) being transported into areas with high ambient concentrations during May-September
- ◆ Provide for a real capability to address any residual ozone problem locally by reducing background levels
- ◆ Provide a real basis for addressing the new ozone and PM-fine health standards and the proposed national haze program



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *Basis and Background*

- ◆ EPA finding of states' "Significant Contribution" to other areas' nonattainment problem
- ◆ Noted as expected regional control approach in Presidential Directive on New Health Standards
- ◆ Result of OTAG Evaluations and Recommendations
- ◆ A major SIP element related to 1 hr (and 8 hr) attainment plans



## *Regional Ozone Transport Reduction*

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### *Some Key Points*

- ◆ Very Beneficial to Air Quality in the Lake Michigan Region
- ◆ Provides Flexibility
- ◆ Reductions in Lake Michigan Region Beneficial Downwind
- ◆ Addresses Much of Our Concerns Related to Transport



## *Regional Ozone Transport Reductions*

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### *Seasonal Budget Components*

- ◆ Utilities
- ◆ Non-Utility Point Sources
- ◆ Highway Vehicles
- ◆ Off-Road Equipment
- ◆ Area Sources



## *Regional Ozone Transport Reductions*

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### *Expected Costs*

- ◆ Approximately \$1,700 per ton of NO<sub>x</sub> Reduced
- ◆ \$2.8 Billion for 22 States and D.C.
- ◆ Cap & Trade Provides Flexibility and Reduced Costs



## *Regional Ozone Transport Reductions*

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### *Finding of "Significant Contributions"*

- ◆ No Bright Line
- ◆ Weight of Evidence Approach
- ◆ Aggregation of Emissions in a Geographic Region



## *Regional Ozone Transport Reductions*

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### Weight of Evidence

- ◆ Amount of Emissions
- ◆ Emissions Density
- ◆ Ambient Effects
- ◆ Cost & Cost Effectiveness



## *Regional Ozone Transport Reduction*

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### *Section 126 Petitions*

- ◆ Section 126 of Clean Air Act
- ◆ Addresses Interstate Transport from Point Sources
- ◆ 8 Northeast States Filed Petitions
- ◆ 2 Petitions Named Wisconsin
- ◆ Petitions Request Large Reductions Fast
- ◆ EPA Working to Integrate Petitions with the SIP Call



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *Some residual issues.....*

- ◆ Outcome of NO<sub>x</sub> RACT Waiver under Sec 182 and justification for any continuing exemption
- ◆ Investigating need for additional VOC controls and other elements in transition from 1 hr to 8 hr standards with lowered background levels
- ◆ Statewide application of proposed Nox Budget
- ◆ Equity concerns regarding budget calculation - between states and between sectors



## *Regional Ozone Transport Reductions*

### **NO<sub>x</sub> Waiver**

- ◆ Waivers Cover Section 182 Not Section 110
- ◆ Budgets Not Adjusted for Waived Sources
- ◆ EPA Acknowledges Problem in Lake Michigan Region



## *Regional Ozone Transport Reductions*

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### Transportation Issues

- ◆ Transport Budget Doesn't Trigger Conformity Determination
- ◆ No Proposed Adjustment for Fuel Improvements

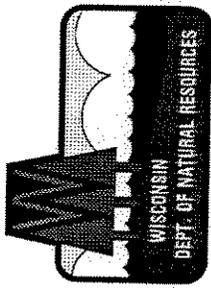


## *US EPA's Regional Ozone Transport Reduction Proposal*

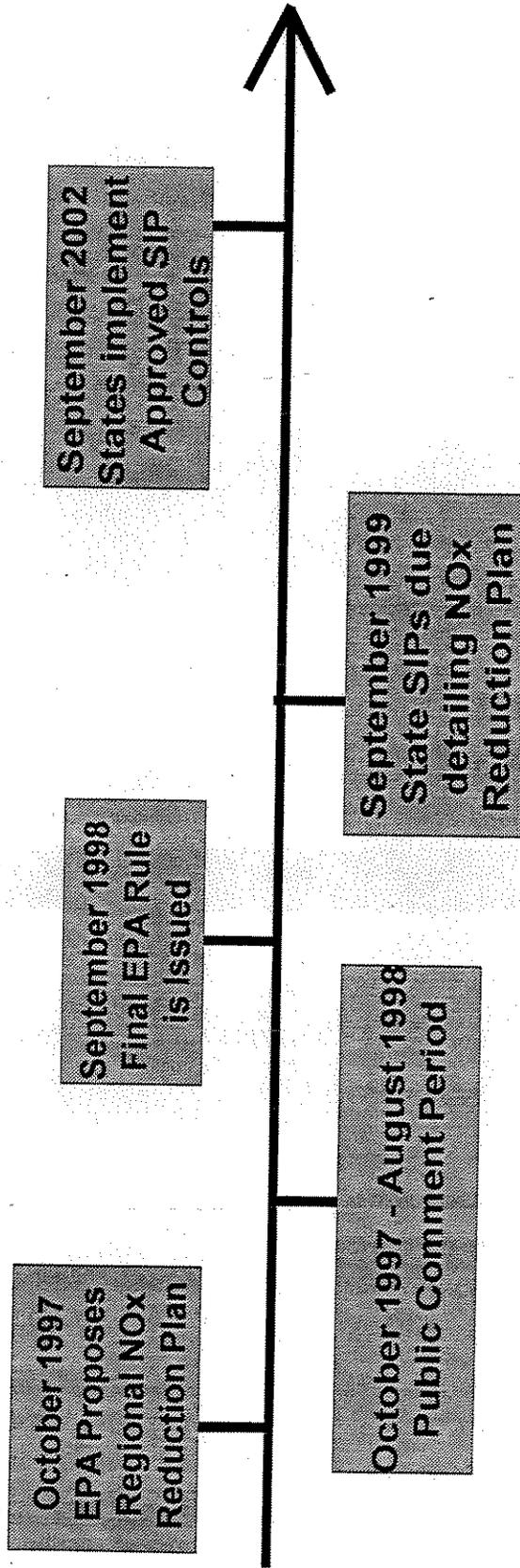
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### *What are the critical dates?*

- ◆ Initial Response to proposed Budget in 120 days
- ◆ EPA commitment to 9-10 month "real" input on budget and controls milestone refinements
- ◆ Develop plans and programs and submit SIPs by September 1999
- ◆ Implement programs by 2002 with effectiveness targets between 2002-2004 (*under negotiation due to 126 petitions by some states*)



# EPA Regional Ozone Control Strategy Timeline





## *Regional Ozone Transport Reductions*

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### *SIP Requirements*

- ◆ Baseline 2007 Emissions
- ◆ Documented Growth Factors
- ◆ Projected 2007 Emissions
- ◆ List of Control Measures
- ◆ Fully Adopted Rules for Transport Strategy



## *Regional Ozone Transport Reductions*

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### *Presidential Directive*

- ◆ Links New Standards & SIP Call
- ◆ Responds to Transport
- ◆ Rewards States for Early Action
- ◆ Minimizes Planning Requirements
  - ◆ 92 of Attainment for 96 New 8-Hour Nonattainment Counties
  - ◆ Attainment for 95 of 124 8-Hour Nonattainment Areas Located in Existing 1-Hour Nonattainment Counties
  - ◆ No Additional Local Controls for these Areas



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *How will it work?*

- ◆ State part of a regional structure (LMOP-98?) to pursue refined technical evaluation and modeling
- ◆ Expect to work through both a technical workgroup and stakeholder structure to develop programs
- ◆ Will use regional structure to coordinate as possible
- ◆ Rulemaking for significant actions and to codify control programs
- ◆ Committed to explore the feasibility of regional and/or intrastate trading programs



## *NOx Control Applied to Budget Calculations*

<b>Emissions Source Sector</b>	<b>Controls Applied in Developing Budget</b>
Electric Utilities - Boilers > 25 MWe	0.15 lb/MMBtu
Non-Utility Point Sources	70% Control for Large Sources RACT for Medium Sources
Nonroad Mobile Sources	Phase 2 Small Engine Standards Marine Engine Standards Locomotive Standards
Highway Vehicles	NLEV 2004 Heavy Duty Diesel Standards Revisions to FTP
Area Sources	Existing CAA Requirements and Measures Required in SIPs

Draft 3 - SIP Team - 10/20

Regional SIP Coordination

Ozone SIP Coordination Group

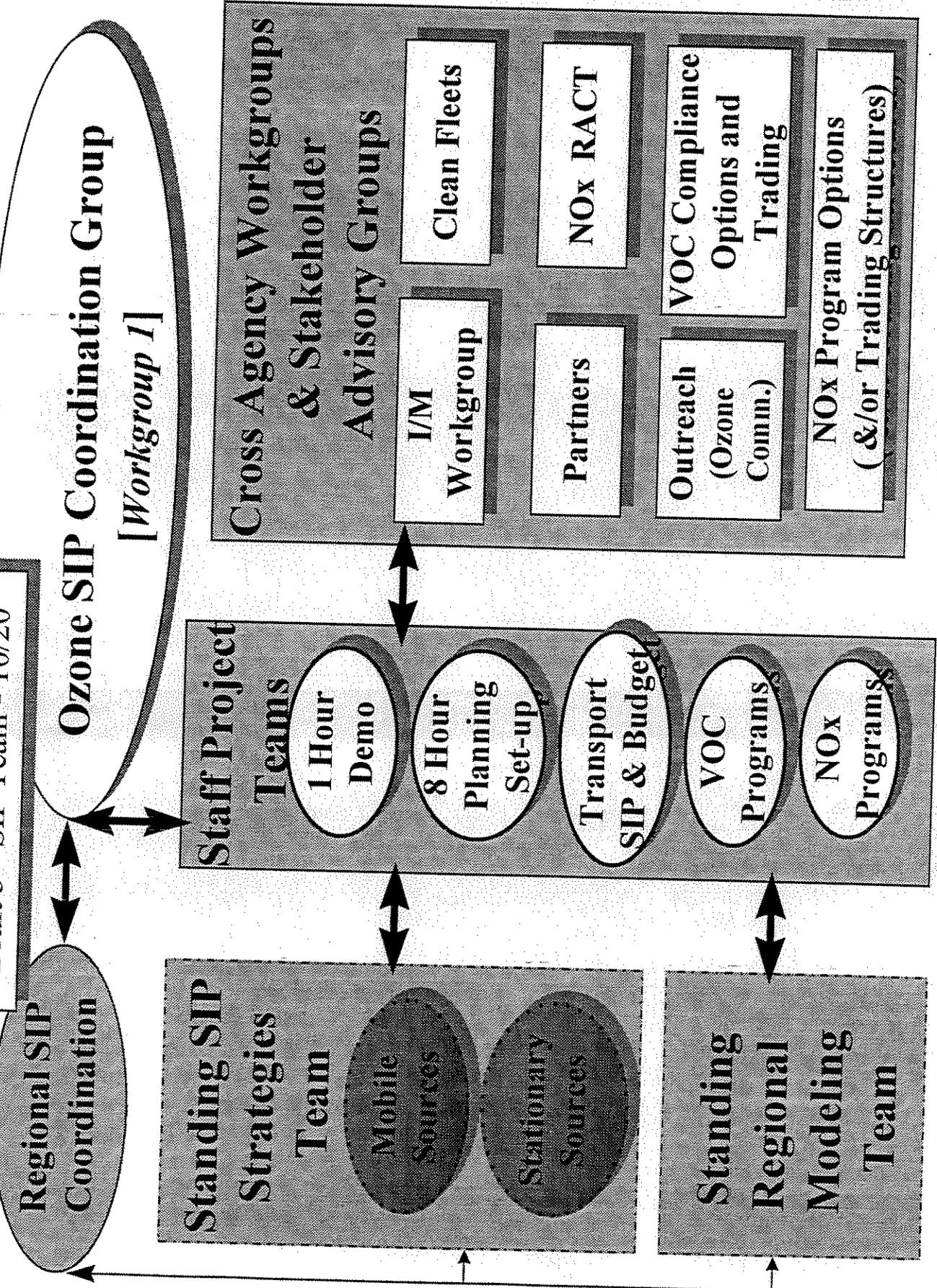
[Workgroup 1]

Standing SIP Strategies Team  
Mobile Sources  
Stationary Sources

Standing Regional Modeling Team

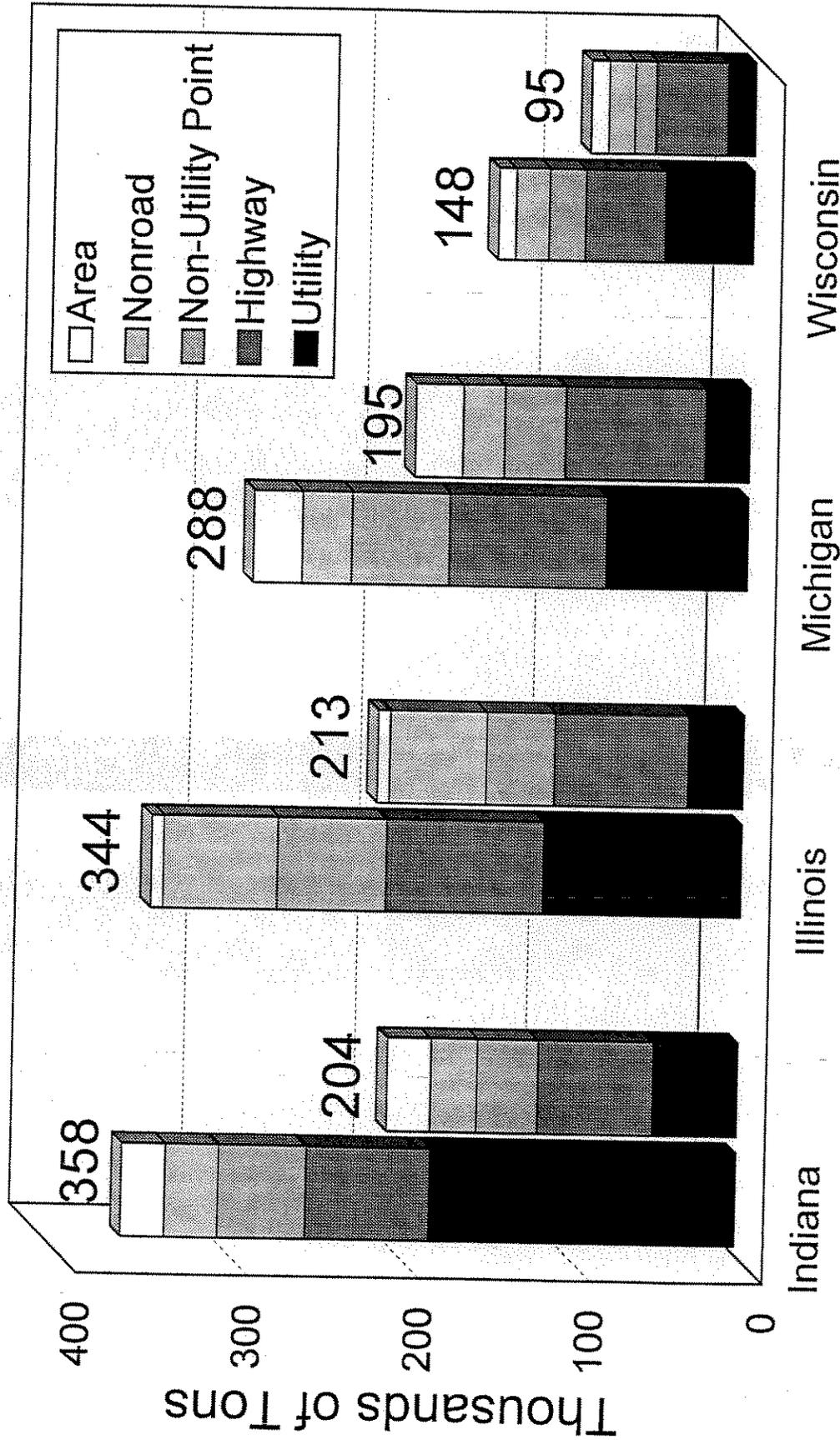
Staff Project Teams  
1 Hour Demo  
8 Hour Planning Set-up  
Transport SIP & Budget  
VOC Programs  
NOx Programs

Cross Agency Workgroups & Stakeholder Advisory Groups  
I/M Workgroup  
Clean Fleets  
Partners  
NOx RACT  
Outreach (Ozone Comm.)  
VOC Compliance Options and Trading  
NOx Program Options (&/or Trading Structures)



# NOx Reduction Requirements

Base vs. Budget, by Inventory Sector

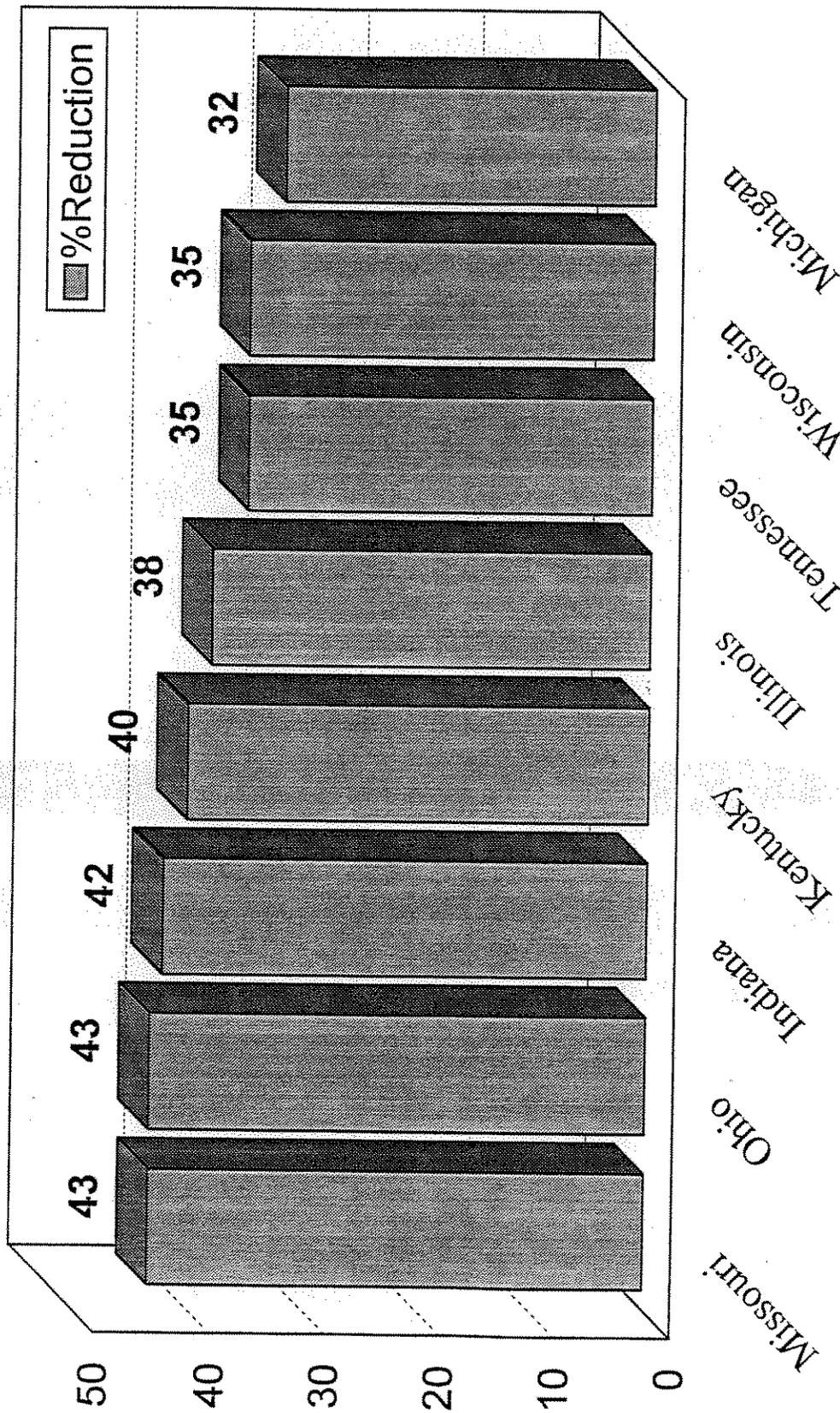


Based on SIP Call of October 10, 1997

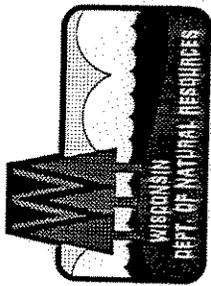


# EPA NOx Budget Allotments

## Required NOx Reductions in Midwestern States

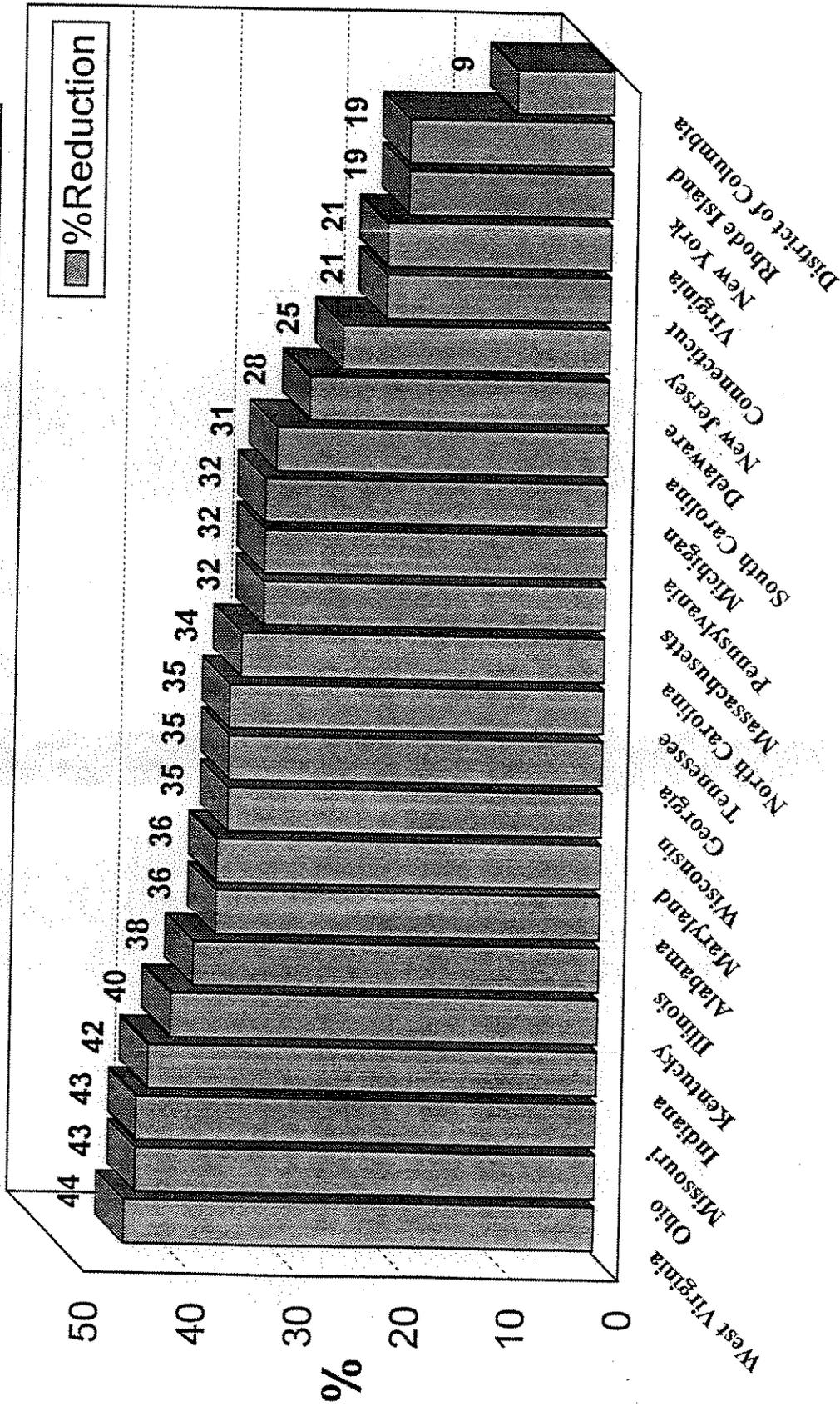


Based on SIP Call of October 10, 1997



# Mandated NOx Reductions

% of Required Reduction from a 2007 Base



Based on SIP Call of October 10, 1997



**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities  
Vice Chair: Urban Education  
Co-Chair: Joint Legislative Council

March 5, 1997

US EPA

Air Docket (6102)

ATTN: Air Docket A-95-38

Waterside Mall

401 M. Street SW

Washington, DC 20460

Dear US EPA:

As chair of the Committee on Environment in the Wisconsin State Assembly which has oversight authority over Clean Air Act implementation, I am writing to provide comments regarding the interim implementation policy for the proposed ozone standards. These comments evolve from a recent committee briefing by Don Theiler, Director of the WDNR Bureau of Air Management, on the US EPA proposed ozone standards.

First of all, the changes in the ozone standard should be linked to a policy on the transport issue. Enacting more stringent standards without addressing the ozone transport issue will make it virtually impossible for many areas in Wisconsin to reach attainment. Clearly since up to 60% of the ozone pollution problem for Southeast Wisconsin and other areas in the Great Lakes region is caused by transport, it is vital to address this problem before moving forward with more stringent standards on ozone. Technical modeling conducted by WDNR proves it is not possible to meet current ozone standards through emission controls imposed on the non-attainment area. Enacting new, more stringent standards would worsen this problem for our region.

Second, the continuation of rate of progress requirements should be suspended until the new standards are finalized. The rate of progress requirements under current policy could impose dramatic new regulations that may not be necessary under the new standard. This could cause unnecessary expenditures and economic disruptions. If EPA continues rate of progress requirements, flexibility must be provided. Because of how the transport issue affects Wisconsin's non-attainment areas, credits should be applied for VOC and NO<sub>x</sub> emissions reductions from outside the non-attainment area.

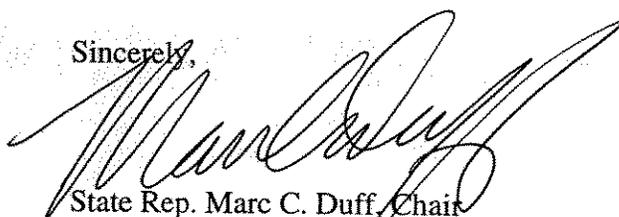
OFFICE: State Capitol  
PO. Box 8952  
Madison, WI 53708-8952  
608-266-1190  
HOME: 1811 South Elm Grove Road  
New Berlin, WI 53151  
414-782-0763  
TOLL-FREE HOTLINE: 1-800-362-9472  
E-MAIL: USWLSA98@IBMMAIL.COM



Finally, an approach should be used that separates air quality violation areas and areas whose emissions contribute to violations through transport. This is being worked on through your Subcommittee for Ozone, Particulate Matter and Regional Haze Implementation Programs. Clearly setting up a procedure for designating "areas of violation" and "areas of influence" makes sense because actions to reduce emissions would be taken against the appropriate areas emitting the pollution. This is critical because it finally allows for fair and proper regulation of ozone by recognizing the transport issue.

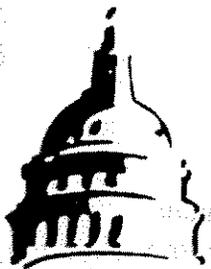
Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc C. Duff". The signature is fluid and cursive, with a large, sweeping flourish at the end.

State Rep. Marc C. Duff, Chair  
Assembly Committee on Environment

mcd



**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities

Vice Chair: Urban Education

Co-Chair: Joint Legislative Council

March 6, 1998

Attention: Air Docket A-96-56  
U.S. Environmental Protection Agency  
401 M. Street SW  
Room M-1500  
Washington, DC 20460

Dear US EPA:

As members of the Committee on Environment in the Wisconsin State Assembly which has oversight authority over Clean Air Act implementation, we are writing to provide comments regarding the EPA's proposed rule to require NO<sub>x</sub> emission reductions from 22 eastern states.

Certainly the intent of the proposed rule meets with Wisconsin's long standing priority to address ozone transport. However, we have several significant concerns with the current proposed NO<sub>x</sub> emission reduction requirements. We strongly urge the USEPA to modify this proposed rule to address our concerns and provide the necessary time to implement a fair and accurate rule.

The current 120-day comment period on this highly complex, costly and controversial rule is too short. More time is needed to provide OTAG and states with the ability to complete necessary regional scale modeling. This makes it very difficult for states to provide accurate and meaningful comments about the EPA's NO<sub>x</sub> budget calculations. Clearly it should be EPA's priority to obtain accurate data and input on this important issue. Additional time to finalize modeling and analysis would provide more information and answers to some of the following issues:

1. Whether or not to acknowledge the local disbenefits from NO<sub>x</sub> reductions;
2. The level and the effect of transport from various states, some of which are excluded from the 22-state NO<sub>x</sub> SIP call; and
3. The effect of ozone transport contributions by areas in Wisconsin north of 44 degrees latitude.

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PO. Box 8952  
Madison, WI 53708-8952  
608-266-1190

HOME: 1811 South Elm Grove Road  
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TOLL-FREE HOTLINE: 1-800-362-9472  
E-MAIL: USWLSA98@IBMMAIL.COM





## Controlling Ozone Concentrations in Wisconsin

Briefing for the  
Assembly Environment Committee  
June 2, 1998



## *Controlling Ozone Concentrations in Wisconsin*

- ◆ Briefing Outline
  - ◆ 1-Hour Attainment Demonstration
  - ◆ Reduction in Transported Ozone
  - ◆ Results of Air Quality Modeling
  - ◆ Next Steps



## *Controlling Ozone Concentrations in Wisconsin*

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### ◆ Next Steps

- ◆ Complete Comments on USEPA Transport Reduction Proposals
- ◆ Begin Working on Transport Reduction Plans
- ◆ Work with Other Lake Michigan States on Analyses for 1-Hour and 8-Hour Attainment Demonstrations
- ◆ Begin Working on Attainment Demonstration Plans



## **Regional Ozone Transport Reduction**

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US EPA's Proposed  
110 "NO<sub>x</sub>" SIP Call as Updated  
with Supplement Elements - 5/98



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *What is it?*

- ◆ Call by EPA to 22 States and D.C. for enforceable plans ("SIPs") to provide major reductions in statewide NOx emissions by 2002-2004 in order to reduce regional "background" ozone levels

### *Who's affected?*

- ◆ Budget covers all sectors, but focus is on major Point Sources of NOx including Utility Plants and large Industries Boilers/Furnaces/Engines
- ◆ Proposal presumes statewide reductions to meet statewide Budget



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *What's the purpose?*

- ◆ Significantly lower the level of ozone and the pollutants that cause ozone (precursors) being transported into areas with high ambient concentrations during May-September
- ◆ Provide for a real capability to address any residual ozone problem locally by reducing background levels
- ◆ Provide a real basis for addressing the new ozone and PM-fine health standards and the proposed national haze program



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *Basis and Background*

- ◆ EPA finding of states' "Significant Contribution" to other areas' nonattainment problem
- ◆ Noted as expected regional control approach in Presidential Directive on New Health Standards
- ◆ Result of OTAG Evaluations and Recommendations
- ◆ A major SIP element related to 1 hr (and 8 hr) attainment plans



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *How will it work?*

- ◆ State part of a regional structure pursuing refined technical evaluation and modeling
- ◆ Working through both a stakeholder structure and technical workgroup to develop programs
- ◆ Using regional structure to coordinate as possible
- ◆ Rulemaking for significant actions and to codify control programs
- ◆ Committed to regional and/or intrastate trading programs as feasible



## *Regional Ozone Transport Reduction*

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### *Some Key Points*

- ◆ Very Beneficial to Air Quality in the Lake Michigan Region
- ◆ Provides Flexibility
- ◆ Reductions in Lake Michigan Region Beneficial Downwind
- ◆ Addresses Much of Our Concerns Related to Transport



## *Regional Ozone Transport Reductions*

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### *Seasonal Budget Components*

- ◆ Utilities
- ◆ Non-Utility Point Sources
- ◆ Highway Vehicles
- ◆ Off-Road Equipment
- ◆ Area Sources



## *NOx Control Applied to Budget Calculations - NPR*

<b>Emissions Source Sector</b>	<b>Controls Applied in Developing Budget</b>
Electric Utilities - Boilers > 25 MWe	0.15 lb/MMBtu
Non-Utility Point Sources	70% Control for Large Sources RACT for Medium Sources
Nonroad Mobile Sources	Phase 2 Small Engine Standards Marine Engine Standards Locomotive Standards
Highway Vehicles	NLEV 2004 Heavy Duty Diesel Standards Revisions to FTP
Area Sources	Existing CAA Requirements and Measures Required in SIPs



## *Regional Ozone Transport Reductions*

### *Finding of "Significant Contributions"*

- ◆ No Bright Line
- ◆ Weight of Evidence Approach
- ◆ Aggregation of Emissions in a Geographic Region

### *Expected Costs*

- ◆ Approximately \$1,700 per ton of NOx Reduced
- ◆ \$2.8 Billion for 22 States and D.C.
- ◆ Cap & Trade Provides Flexibility and Reduced Costs



## *US EPA's Regional Ozone Transport Reduction Proposal*

### *What are the critical dates?*

- ◆ Initial Response to proposal March 9
- ◆ Submit Final Comments by June 25
- ◆ EPA finalizes budgets and SIP Call Rule Fall 1998
- ◆ Develop plans and programs and submit SIPs by Fall 1999
- ◆ Implement programs by 2002 with effectiveness targets between 2002-2005?
  - ◆ *(under negotiation due to 126 petitions by some states and significant effort by others to pursue Phased Approach to reach control targets)*



## *Regional Ozone Transport Reduction*

### *Section 126 Petitions*

- ◆ Section 126 of Clean Air Act
- ◆ Addresses Interstate Transport from Point Sources
- ◆ 8 Northeast States Filed Petitions
- ◆ 2 Petitions Named Wisconsin
- ◆ Petitions Request Large Reductions Fast
- ◆ EPA Working to Integrate Petitions with the SIP Call



## *Regional Ozone Transport Reductions*

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### *NOx Waiver*

- ◆ Waivers Cover Section 182 Not Section 110
- ◆ Budgets Not Adjusted for Waived Sources
- ◆ EPA Acknowledges Problem in Lake Michigan Region

### *Transportation Issues*

- ◆ Transport Budget Doesn't Trigger Conformity Determination
- ◆ No Proposed Adjustment for Fuel Improvements



## *Comments on NPR Package*

---

- ◆ *NPR Comment Areas (Sent Mar 9)*
  - ◆ NOx Budget Details & Flexibility
  - ◆ Program and Controls Timing
  - ◆ Control Level Targets
  - ◆ Control Region Boundary (esp in WI)
  - ◆ Need for Level Playing Field between States
  - ◆ Addressing State Power Reliability Concerns
  - ◆ Optimizing Program for Multipollutant Concerns



## *New Comment Areas - SNPR*

- ◆ Focus on NO<sub>x</sub> Trading & Banking Model Program
- ◆ Focus on NO<sub>x</sub> "Budget" Correction and Refinement
  - Technical Adjustment Need as Better Info
  - Consistent Growth and Control Targets
- ◆ Emissions Tracking and Reporting Requirements
- ◆ Phasing of Control Requirements
  - Default 2nd Level to address Regional Attainment
  - Opt-out or adjustment for 2nd Level should be possible with Technical Demonstration based on Modeling and Monitoring
- ◆ Flexibility to Adjust NW Boundary or Control Level during SIP based on Technical Demonstration of Attainment



## *Follow-up to NPR Comments*

- ◆ Still Modeling Impact of Western & Northern Emissions on problem ozone areas
- ◆ More formal proposal - Phasing of Control Requirements
  - Default 2nd Level to address Regional Attainment
  - Opt-out for 2nd Level possible with Technical Demonstration based on Modeling and Monitoring
- ◆ More formal proposal - Control Region Boundary
  - NO<sub>x</sub> SIP flexibility to adjust control region boundary (in WI) with 3-4 alternatives under review
  - Flexibility to establish multiple control level boundary "zones" on fringe of 22 state area based on technical demonstration of ozone attainment (2000-2002)