

MESSAGE TO STATE ENVIRONMENTAL COMMISSIONERS AND AIR DIRECTORS FROM GINA McCARTHY, ASSISTANT ADMINISTRATOR, OFFICE OF AIR AND RADIATION, US EPA

I would like to alert you to two upcoming EPA air efforts, one related to implementation of the 1-hour SO₂ NAAQS and one related to interstate transport in light of recent decisions by the DC Circuit Court of Appeals regarding the Cross State Air Pollution Rule.

SO₂: Last summer, EPA used its authority under the Clean Air Act to extend by up to one year the deadline for promulgating initial area designations for the primary 1-hour NAAQS for SO₂ that was promulgated in June 2010. With this extension, EPA is required to establish initial designations by early June 2013. To this end, EPA Regional Administrators (RAs) will soon be sending letters to U.S. governors informing them of the Agency's intended nonattainment designations for areas with existing monitored violations. States will then have 120 days to work with EPA and provide additional information before the Administrator makes final decisions for these areas in early June 2013. Also, the letters will reference information on how EPA intends to implement the standard for the rest of the country, including plans to establish future initial designations for these other areas. We plan to schedule a webinar for state and local agencies in the near future to describe these plans and answer clarifying questions.

Interstate Transport: On Thursday, January 24, the DC Circuit Court of Appeals denied the EPA's request for an en banc rehearing of its August Homer City decision vacating the Cross State Air Pollution Rule. EPA is continuing to review the decision and evaluate all of its options. However, the vacatur of the Cross State Rule leaves the EPA and states with outstanding obligations for implementing the section 110 (a)(2)(D) "good neighbor" provision of the Clean Air Act, which, as you know, addresses transport of air pollution across state boundaries that affects downwind states' ability to attain and maintain National Ambient Air Quality Standards (NAAQS).

It is important that, even while litigation options are being evaluated, both the EPA and states move ahead to meet these obligations expeditiously, particularly for pollutants such as fine particulate matter (PM_{2.5}) and ozone where areas are not meeting the NAAQS and where the problems are regional in scope.

EPA intends to move forward to implement the interstate transport requirements of the Clean Air Act in accordance with the court's decision, and early on engage with states in this effort, through conference calls and face-to-face meetings, as appropriate. We plan to schedule a call shortly for state and local air agencies to solicit feedback on overall approaches we might adopt (unless the EME Homer City decision is reversed or otherwise modified).

Please stay tuned for more details about the call, and if you have specific questions you would like to raise in the call, then feel free to provide them in advance to your EPA regional office air contact.