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Date: 10/14/03 03:17 AM  
Subject: Comments on State-Recommended Ozone Designations Attached

The public health and environmental organizations listed below have attached a detailed examination of state-recommended ozone designations. An alarming number of the recommendations contravene the plain terms of The Clean Air Act, EPA's long-standing boundary policy, sound science, and basic common sense. We are deeply concerned that the failure to provide adequate designations for the health-based 8-hour ozone standard will postpone critical pollution reductions, delay timely attainment, and prolong the exposure of children and other vulnerable populations to unhealthy levels of ozone pollution. We respectfully urge EPA to correct these deficiencies in order to protect public health and lower harmful concentrations of ground-level ozone. The attached analysis examines numerous, far-reaching categories of deficiencies including:

- v Failure to recommend a county monitoring violations of the 8-hour ozone standard as nonattainment;
- v Exceedingly narrow "spot" boundaries that encompass only the immediate area around the monitored violation;
- v Failure to recommend all counties within a C/MSA or multi-jurisdictional areas as nonattainment;
- v Failure to recommend nearby counties that are likely contributing to ozone violations;
- v Failure to recommend comprehensive nonattainment areas that include the C/MSA and adjacent counties that are monitoring violations;
- v Splitting interstate and intrastate areas; and
- v Failure to address new areas violating the standard since the state recommendations were submitted.

Thank you for considering our concerns.

20/20 Vision  
American Bottom Conservancy  
American Lung Association  
American Lung Association of Metropolitan Chicago  
American Lung Association of New York State, Inc.  
Clean Air Task Force  
Clean Air Trust Education Fund  
Clear the Air  
Environmental Defense  
Health & Environmental Justice - St. Louis  
Missouri Coalition for the Environment  
National Environmental Trust  
National Parks Conservation Association  
Natural Resources Defense Council  
Physicians for Social Responsibility  
Southern Alliance for Clean Energy  
State PIRGs

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**Physicians for Social Responsibility**  
**Southern Alliance for Clean Energy**  
**State PIRGs**

October 13, 2003

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Dear Messrs. Page and Ossias:

The undersigned public health and environmental organizations are writing to convey our serious concerns about the state recommendations for 8-hour ozone air quality designations. Some of the recommendations are sound and consistent with the governing law, policy and technical considerations. An alarming number of the recommendations, however, contravene the law, EPA's long-standing policy, sound science, and basic common sense.

The analysis below identifies a number of serious deficiencies that will undermine the nation's pressing need to protect public health and lower the harmful concentrations of ground-level ozone. We note that in many cases a single area may have several different deficiencies. The failure to provide adequate designations for the health-based 8-hour ozone standard will postpone critical pollution reductions, delay timely attainment, and prolong the exposure of children and other vulnerable populations to unhealthy levels of ozone pollution.

We respectfully urge EPA to correct these deficiencies.

### **PRESUMPTIVE NONATTAINMENT BOUNDARIES THAT CONSTITUTE THE FULL C/MSAS REFLECT SOUND LAW, SOUND POLICY AND SOUND SCIENCE**

Ground-level ozone pollution can irritate the respiratory system and cause symptoms such as coughing, throat irritation and difficulty breathing. Ozone can also aggravate asthma and inflame and damage the lining of the lungs. People susceptible to the adverse effects of ozone pollution include: children, adults who are active outdoors, and people with respiratory diseases. *See* 68 Fed. Reg. 32,802, 32,804 (June 2, 2003). Any delay in attainment of 8-hour ozone national ambient air quality standard will prolong these sensitive groups' exposure to unhealthy ozone levels.

Unfortunately, many states have proposed nonattainment designations for the 8-hour ozone standard that do not encompass all counties in a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area (C/MSA) within which a monitored violation of the standard has occurred. These recommendations are contrary to the Clean Air Act and EPA's long-standing presumptive boundary for C/MSAs and must be rejected in the absence of a compelling scientific justification for the smaller boundary.

The failure of EPA to promulgate protective nonattainment designations would threaten vital public health protections. Many urban centers are surrounded by rapidly expanding suburban counties. Timely attainment of the 8-hour ozone standard will depend on comprehensive boundaries that ensure that all pollution sources, both existing and new, are subject to effective air pollution abatement measures. In the absence of a nonattainment designation for the entire C/MSA, both existing air pollution sources and growth in counties that have been designated attainment or unclassifiable will result in increased air pollution just outside the core nonattainment counties. This unchecked air pollution could dramatically undercut the emission reductions progress being made in the core designated counties. And this would mean that critical progress in lowering ozone pollution levels will be stymied.

Narrow boundaries will also lead to considerable economic inequities among the covered and uncovered sources. The private firms in the counties designated nonattainment will have to bear an additional pollution reduction burden to compensate for pollution abatement strategies that do not in fact encompass all contributing pollution sources. These covered sources, many of which are in core urban areas, will be at an economic disadvantage to the pollution sources in the areas that have failed to produce their share of pollution reductions.

Accordingly, section 107(d)(1)(A)(i) of the Clean Air Act (CAA) requires that all areas that do not meet the NAAQS or that contribute to ambient air quality in a nearby area that does not meet the standard should be designated nonattainment. *See* 42 U.S.C. §7407(d)(1)(A)(i). In providing guidance to states, EPA advised states to designate nonattainment boundaries that encompass all counties in the C/MSA in its March 28, 2000 memorandum, “Boundary Guidance on Air Quality Designations for the 8-Hour Ozone NAAQS.” In its memorandum, EPA stated: “it is best to consider controls on sources over a larger area due to the pervasive nature of ozone and the transport of ozone and its precursors.” Because C/MSAs generally experience higher ozone pollution due to population density, traffic and commuting patterns, commercial and industrial development and area growth, EPA’s presumptive boundary ensures more protection of public health from the adverse effects of ozone pollution. Given this strong presumptive boundary, EPA put the burden of proof on states to establish why certain counties in a C/MSA should not be designated nonattainment. In its memorandum, EPA listed eleven important factors that states need to address to overcome the C/MSA presumptive boundary. Without a strong scientific justification, EPA should reject any state recommendation that does not in fact follow the well-grounded C/MSA presumption.

EPA’s C/MSA presumptive boundary directly arises from the encompassing definition of “nonattainment area” set out in section 107(d)(1)(A)(i) of the Clean Air Act. It is a long-standing policy of the agency and has been codified by Congress. EPA’s presumptive boundary for C/MSA nonattainment areas has been EPA’s policy on this issue for well over a decade. In 1990, EPA advised the states that “[i]n the case of ozone, where transport of ozone or its precursors are an important factor the MSA/CMSA is the most obvious and appropriate boundary for initial SIP planning.” *See* Notice of State implementation plan (SIP) inadequacy and call for SIP revision: Information notice, 55 FR 30973 (July 30, 1990). Likewise, in EPA’s draft ozone strategy for the Clean Air Standards Attainment Act of 1987, EPA emphasized the importance of C/MSA boundaries in attaining ozone NAAQS:

Counties included within an MSA have similar population densities and percentage of commuters to the urban core, hence, large transportation systems and associated vehicular emissions. Due to these emissions and emissions from stationary sources located throughout the MSA/CMSA, EPA believes that attainment of the ozone standard cannot be fully realized in these areas unless the State considers the emissions originating from all the counties within the MSA/CMSA within their control strategy.

1990 CAA Leg. Hist. 9474.

Based on EPA’s long-standing policy and the compelling technical reasons for comprehensive boundaries, the Clean Air Act Amendments of 1990 established the C/MSA as the presumptive

boundary for 1-hour ozone nonattainment areas classified as serious and above. *See* 42 U.S.C. §7407(d)(4)(A)(iv). Congress required the C/MSA boundary for these areas because it understood that for a control strategy to be successful in reducing ozone it must address all the sources contributing to the pollution. At the time of the 1990 Clean Air Act Amendments, EPA was already recommending C/MSA boundaries for ozone nonattainment areas and section 107(d)(4) reflected Congress's codification of this long-standing practice.

It would be contrary to law, policy and science for EPA to advance nonattainment boundaries for the 8-hour ozone standard that do not reflect the full C/MSA unless the state has – in fact – adduced a compelling basis for deviating from long-standing clean air protections.

### **EPA MUST CORRECT THE EXTENSIVE DEFICIENCIES IN STATE RECOMMENDED DESIGNATIONS FOR THE 8-HOUR OZONE STANDARD**

We have performed an extensive review of the state recommendations for air quality designations under the 8-hour ozone standard. We have identified fundamental flaws with the recommended designations. As noted, section 107(d)(1) of the CAA requires that all areas that do not meet the NAAQS or that contribute to ambient air quality in a nearby area that does not meet the standard should be designated nonattainment. *See* 42 U.S.C. §7407(d)(1)(A)(i). Many states have recommended ozone nonattainment designations that contravene this core statutory requirement. We have far-reaching concerns about these deficiencies and their long-term effects on attainment of the ozone NAAQS.

We urge you to correct the following categories of deficiencies which are contrary to law, science and policy:

- ❖ Failure to recommend a county monitoring violations of the 8-hour ozone standard as nonattainment;
- ❖ Exceedingly narrow “spot” boundaries that encompass only the immediate area around the monitored violation;
- ❖ Failure to recommend all counties within a C/MSA or multi-jurisdictional areas as nonattainment;
- ❖ Failure to recommend nearby counties that are likely contributing to ozone violations;
- ❖ Failure to recommend comprehensive nonattainment areas that include the C/MSA and adjacent counties that are monitoring violations;
- ❖ Splitting interstate and intrastate areas; and
- ❖ Failure to address new areas violating the standard since the state recommendations were submitted.

The discussion below provides examples of these problems. It is incumbent upon EPA to ensure that the final air quality designations for ozone are protective and comprehensive, as required by the manifest terms of the statute and long-standing policy, and are consistently and rationally implemented for all areas across the country. *See Western States Petroleum Association v. EPA*, 87 F.3d 280, 285 (9<sup>th</sup> Cir. 1996) (“We need not defer to the EPA because the EPA has abused its discretion in departing from its own prior standards. Because the EPA has failed to offer a sufficient explanation for its differential treatment of Washington’s Title V program, we reverse EPA’s decision on Washington’s ... rules.”) (citations omitted). Failure to do so will compromise bedrock public health protections and lead to arbitrary agency action.

### **EPA Must Designate as Nonattainment Those Counties and C/MSAs Monitoring Violations of the 8-Hour Ozone Standard**

Section 107(d)(1)(A)(i) unambiguously defines as “nonattainment” those areas violating the 8-hour ozone standard. The statute provides no exceptions. It would be a patent violation of the Clean Air Act for EPA to fail to designate as nonattainment those counties with monitored 8-hour ozone NAAQS violations.

An example of state recommendations that must be corrected by EPA are those put forward by Indiana. The state has ignored monitored ozone violations in its nonattainment recommendations, claiming in some cases “county affected by overwhelming transport” or “recommendation deferred.” Indiana, for example, did not recommend a nonattainment designation for Greene County, with a design value of 89 ppb, or Jackson County, with a design value of 85 ppb. Both counties are adjacent to the Bloomington MSA and appear to be the only two ozone monitors representing the Bloomington MSA. The Bloomington MSA is adjacent to the violating Indianapolis MSA. And a monitor in Morgan County that is the part of the Indianapolis CMSA closest to Bloomington also shows ozone violations.

Indiana has also failed to include additional counties in its nonattainment designations notwithstanding monitored violations. Posey County should be designated nonattainment along with the rest of the Evansville IN-KY MSA, and Huntington County also must be designated nonattainment.

We have found a number of other examples of areas with similar deficiencies including New Orleans (Jefferson Parish), Essex County in New York, Rochester, New York, and Jersey, Illinois. In Rochester, for example, the New York failed to recommend a nonattainment designation for any county within the six county C/MSA despite a violation in Monroe County. We urge EPA to ensure that these and all other C/MSA’s having counties with 8-hour ozone violations are, in fact, designated nonattainment.

We are likewise concerned that in some instances monitors have been relocated or terminated in areas that were poised to violate the 8-hour ozone standard. We must ensure that public health is fully protected in any area where a violation was prematurely avoided due to changes in monitoring. These areas must be designated nonattainment. For example, Monroe County, PA, is in the Scranton 1-hour nonattainment area, but the State did not recommend nonattainment for

the 8-hour standard. The county was violating with a 97 ppb in 1997-1999 after which the monitor was turned off. There has been no monitoring since.

We also urge EPA to consider using Castnet monitors to inform designations where there is inadequate monitoring. It flies in the face of common sense to ignore the data from this publicly-funded monitoring network in making decisions that are critical to protect public health.

### **EPA Must Designate Comprehensive Ozone Nonattainment Boundaries and Reject Narrow “Spot” Boundaries**

In a number of instances states have recommended that only very small “spot” areas be designated as nonattainment. These recommendations contravene the Clean Air Act and EPA’s long-standing boundary guidance.

North Carolina, for example, has recommended that only the municipal boundary of the City of Legget in Edgecombe County be designated as nonattainment. While the municipality of Legget is where the violating ozone monitor is located, Legget is part of the two county Rocky Mount MSA (i.e., Edgecombe County and Nash County) which is adjacent to the Raleigh-Durham-Chapel Hill MSA - an area for which nonattainment designation has been recommended. North Carolina asserts that “on the majority of days when the [Legget] monitor exceeded the 8-hour standard,” the monitor is being impacted by the plume from the Raleigh-Durham-Chapel Hill area based on wind analysis. At the same time, North Carolina concedes that the Interstate 95 corridor was the more likely source of air pollution impacting the Legget monitor on close to half of the days with monitored violations. This highway runs just west of Rocky Mount, a town whose MSA includes the municipality of Legget.

Thus, if the Clean Air Act and EPA’s boundary guidance are followed, then the entire Rocky Mount MSA must be designated as nonattainment. The narrow Legget nonattainment boundary, by contrast, fails to capture the sources of pollution contributing to unhealthy air in the area, as required by section 107(d)(1)(A)(i) of the Clean Air Act. We urge EPA to ensure that the entire Rocky Mount MSA is designated an ozone nonattainment area.

North Carolina followed a similarly deficient approach in its recommendation to designate as nonattainment only the areas above 4000 feet in elevation in the Great Craggy Mountains, Black Mountains, Blue Ridge Mountains, Great Balsam Mountains, Plott Balsams Mountains, and in McDowell and Yancey Counties. Such mountain top designations are contrary to law, science and basic common sense.

Likewise, EPA must designate as nonattainment the entire counties in which the Shenandoah National Park is located, not just the park boundaries. EPA must also designate as nonattainment comprehensive boundaries for the Cohutta Class I wilderness area in Murray County, Georgia near the Chattanooga CMSA that also has monitored ozone violations.

There are many examples of deficient “spot” nonattainment boundaries. We urge EPA to correct all such deficiencies including, for example, the portion of Alexander County, NC in the Hickory



MSA, NC, and Abbeville County, SC, which should be combined with the adjacent Greenville-Spartanburg-Anderson MSA, SC.

Indeed, both North Carolina and South Carolina have made numerous recommendations to designate as nonattainment only a very small portion of the county immediately around the violating monitor. Ozone is a far-reaching, regional pollution problem. Such narrow boundaries both fail to encompass the true extent of unhealthy ozone concentrations and the contributing pollution sources (both existing and predicted growth). EPA must reject these unprotective small area designations and ensure that entire counties and affected C/MSAs are designated as nonattainment.

### **EPA Must Ensure that All Counties within a C/MSA or Multi-jurisdictional Areas Are Designated Nonattainment**

Many states have failed to comply with the law and EPA's long-standing policy calling for presumptive C/MSA boundaries. At core, EPA has long-required nonattainment boundaries to encompass the entire C/MSA to ensure the public health protection that results from comprehensive, sound air quality management, and to ensure that all sources that contribute to ozone nonattainment problems bear their fair share of the clean up costs. We have found a similar deficiency for those recommendations related to intrastate multi-jurisdictional areas where certain areas have been split off from the recommendations. Again, comprehensive boundaries are integral to effective planning and inter-governmental coordination.

We urge EPA to ensure, for example, comprehensive boundaries for the Macon, Georgia MSA. Georgia has recommended that only one county of the five-county Macon MSA be designated nonattainment, without adducing any compelling technical rationale. The OMB designates areas as MSAs based on "a high degree of social and economic interaction with the core [city] as measured by commuting ties." It appears there is only one ozone monitor operating in the Macon area, located in Bibb County. EPA would create perverse incentives for ozone monitoring if only Bibb County were declared nonattainment. Indeed, in three of four of the MSA counties excluded from the recommended nonattainment designation, at least 70% drive to work in Macon. And all four excluded counties have higher growth than Bibb County. Together they have more population and an equal amount of VOC and NOX emissions. Further, the adjacent excluded county of Monroe includes the second largest source of NOx emissions in the state: the Scherer Power Plant. In fact, emissions of NOx are four times higher in Monroe County than in Bibb County - the county recommended by Georgia for nonattainment designation. Adjacent Putnam County also has significant more emissions than the five county MSA. Sources in the MSA counties and the large emitting adjacent counties clearly contribute to the high ozone concentrations measured at the only Macon monitor in Bibb County. Accordingly, the entire MSA and Monroe and Putnam Counties must be designated as nonattainment.

Similarly, South Carolina misses the mark in recommending that its counties - that are part of the Charlotte-Gastonia-Rock Hill (NC-SC) C/MSA -- be designated as attainment. North Carolina, conversely, found that York County in South Carolina is contributing to ozone nonattainment in the Charlotte area. In fact, North Carolina's recommendation letter relayed the

City of Charlotte's urging that York County, South Carolina be included in the Charlotte nonattainment designation so that it could be held to the same requirements for pollution abatement action and air quality planning coordination. North Carolina also indicated that failure to include the contributing York County in the Charlotte nonattainment designation would not only impede public health protections but could hurt Charlotte's ability to attract and retain economic development.

There are numerous other examples of states not recommending entire C/MSAs for ozone nonattainment designation or excluding portions of multi-jurisdictional areas. The following are examples of deficient C/MSAs and multi-jurisdictional boundaries that omit one or more areas or counties without any reasoned explanation:

- Asheville area (NC)
- Atlanta area (GA-AL)
- Augusta-Aiken area (GA-SC)
- Austin area (TX)
- Birmingham area (AL)
- Canton-Massillon area (OH)
- Charlotte-Gastonia-Rock Hill area (NC-SC)
- Chattanooga area (TN-GA)
- Chicago area (IL-WI-IN)
- Cincinnati-Hamilton area (OH-KY-IN)
- Clarksville-Hopkinsville area (KY)
- Columbia area (SC)
- Columbus area (OH)
- Dallas-Fort Worth area (TX)
- Decatur area (AL)
- Detroit-Ann Arbor-Flint area (MI)
- Evansville-Henderson area (IN-KY)
- Florence area (SC)
- Fort Wayne area (IN)
- Grand Rapids-Muskegon-Holland area (MI)
- Greensboro-Winston-Salem-High Point area (NC)
- Greenville-Spartanburg-Anderson area (SC)
- Hickory-Morganton-Lenoir area (NC)
- Huntington-Ashland area (WV-KY-OH)
- Johnston City-Kingsport-Bristol area (TN-VA)
- Johnstown area (PA)
- Kansas City area (MO-KS)
- Knoxville area (TN)
- Lima area (OH)
- Longview-Marshall (TX)
- Los Angeles-Riverside-Orange County area (CA)
- Louisville area (KY-IN)
- Macon area (GA)
- Memphis area (TN)

Nashville area (TN)  
New Orleans area (LA)  
New York area (NY-NJ-CT-PA)  
Norfolk-Virginia Beach-Newport News area (VA-NC)  
Phoenix area (AZ)  
Raleigh-Durham-Chapel Hill (NC)  
Richmond-Petersburg area (VA)  
Rocky Mount area (NC)  
Sacramento area (CA)  
San Antonio area (TX)  
Scranton-Wilkes-Barre-Hazleton area (PA)  
St. Louis area (MO-IL)  
Toledo area (OH)  
Tulsa area (OK)  
Washington-Baltimore area (DC-MD-VA-WV)  
Wheeling area (WV-OH)

EPA must ensure that the entire C/MSAs and multijurisdictional areas are designated nonattainment, or ensure that the state has in fact adduced a compelling basis for less protective boundaries.

**Consistent with the Clean Air Act, EPA Must Designate as Nonattainment All Areas that Contribute to Nonattainment in a Nearby Area Even if Such Area is Outside of the Formal C/MSA Boundaries**

In many cases, counties adjacent to violating areas include high emissions of VOCs and/or NO<sub>x</sub> and are contributing to nonattainment in the C/MSA that is being recommended for nonattainment designation. However, a significant number of states have recommended separate designations for such areas, even if such areas are also violating the 8-hour ozone NAAQS, rather than including those counties as part of the larger C/MSA nonattainment area. Comprehensive, protective boundaries will ensure coordinated air quality management and planning, harmonious classifications and RFP requirements, and reasoned, integrated redesignation requests.

For example, Pennsylvania recommended the entire Pittsburgh MSA as nonattainment, but did not include the adjacent Indiana County that has significant NO<sub>x</sub> emissions. Indeed, the highest NO<sub>x</sub> emitting power plant in Pennsylvania is located in Indiana County, and it was reported in 1996 to emit over 34,000 tons of NO<sub>x</sub>. A total of more than 54,000 tons of NO<sub>x</sub> is emitted from sources within Indiana County each year. This is much greater than the NO<sub>x</sub> emissions emanating from six of the seven Pittsburgh counties recommended for nonattainment. It is evident that the NO<sub>x</sub> emissions from this adjacent county contribute to ozone nonattainment, and that this county should be included with the nonattainment designation.

There are numerous examples of adjacent counties meeting the strictures of section 107(d)(1)(A)(i), which mandates a nonattainment designation for areas contributing to nonattainment in a nearby area, that have nevertheless been excluded. We urge EPA to ensure

that these contributing counties are in fact designated nonattainment. Examples of areas that excluded contributing counties include:

Asheville area (NC)  
Atlanta area (GA-AL)  
Austin-San Marcos area (TX)  
Baton Rouge area (LA)  
Beaumont-Port Arthur area (TX)  
Benton Harbor area (MI)  
Birmingham area (AL)  
Bloomington area (IN)  
Canton-Massillon area (OH)  
Charleston area (WV)  
Charlotte-Gastonia-Rock Hill area (NC-SC)  
Chattanooga area (TN-GA)  
Chicago area (IL-IN)  
Cincinnati-Hamilton area (OH-KY-IN)  
Clarksville-Hopkinsville area (TN-KY)  
Cleveland-Akron area (OH)  
Columbia area (SC)  
Columbus area (OH)  
Dallas-Fort Worth area (TX)  
Decatur area (AL)  
Detroit-Ann Arbor-Flint area (MI)  
Erie area (PA)  
Evansville-Henderson area (IN-KY)  
Fayetteville area (NC)  
Grand Rapids-Muskegon-Holland area (MI)  
Greater New York City area (NY-NJ-CT-PA)  
Greenbay-Appleton-Oshkosh Neenah-Door Co-Kewaunee Co area (WI)  
Greensboro-Winston Salem-High Point area (NC)  
Greenville-Spartanburg-Anderson area (SC)  
Hickory-Morgantown-Lenoir area (NC)  
Houston-Galveston-Brazoria area (TX)  
Huntington-Ashland area (WV-KY-OH)  
Indianapolis area (IN)  
Jamestown area (NY)  
Johnston City-Kingsport-Bristol area (TN-VA)  
Johnstown area (PA)  
Kansas City area (MO-KS)  
Knoxville area (TN)  
Little Rock area (AR)  
Longview-Marshall area (TX)  
Los Angeles area (CA)  
Louisville area (KY-IN)  
Macon area (GA)

Memphis area (TN-MS-AR)  
Milwaukee-Racine area (WI)  
Nashville area (TN)  
New Orleans area (LA)  
Owensboro area (KY-IN)  
Parkersburg-Marietta area (WV-OH)  
Pittsburgh area (PA)  
Raleigh-Durham-Chapel Hill (NC)  
Reading area (PA)  
Rocky Mount area (NC)  
Sacramento area (CA)  
San Antonio area (TX)  
San Joaquin Valley (CA)  
Scranton-Wilkes Barre-Hazleton area (PA)  
Sheboygan area (WI)  
South Bend-Elkhart (IN-MI)  
St. Louis area (MO-IL)  
State College area (PA)  
Syracuse area (NY)  
Toledo area (OH)  
Tulsa area (OK)  
Washington-Baltimore area (DC-MD-VA-WV)  
Wheeling area (WV-OH)

To ensure that ozone SIP requirements address all contributors to the ozone nonattainment problem in an area, counties adjacent to violating C/MSAs should be carefully analyzed and included if likely contributing to the violations.

**Likewise, Counties Adjacent to C/MSAs With Monitored Violations Should be Designated Part of the C/MSA to Form More Comprehensive Nonattainment Areas**

While in some instances nearby sources contribute to nonattainment in a downwind county and should be included as part of the C/MSA, it is also the case that there are counties adjacent to C/MSAs with monitored violations. In many instances, it is evident that sound air quality planning and management dictates that the adjacent areas with violations should be included with the C/MSA to form a more comprehensive nonattainment area. Airsheds do not neatly confine themselves to C/MSAs and where monitoring shows a violation, it is EPA's responsibility to ensure comprehensive boundaries are established and that the violating county is not artificially split off from the nearby C/MSA.

For example, Greene County, PA, is adjacent to the Pittsburgh C/MSA and is part of the Pittsburgh airshed. The sources in both areas should be subject to the same, comprehensive ozone nonattainment planning requirements including the same classifications, RACT and RFP requirements. And neither area should be redesignated attainment until both areas attain. By contrast, the misplaced effect of designating adjacent counties as separate nonattainment areas will likely mean a disparate design values and separate classifications for the C/MSA and

adjacent county even though they share the same airshed and are commonly affected by the same pollution sources.

Other examples of violating counties adjacent to C/MSAs that should be joined as comprehensive nonattainment boundaries include:

Calaveras County, CA  
Imperial County, CA  
Mariposa County, CA  
Nevada County, CA  
Toulumne County, CA  
Green County, IN  
Jackson County, IN  
LaPorte County, IN  
Kent County, MD  
Cass County, MI  
Haywood County, NC  
Jackson County, NC  
Yancy County, NC  
Knox County, OH  
Clinton County, OH  
Clearfield County, PA  
Franklin County, PA  
Abbeville County, SC  
Haywood County, TN  
Frederick County, VA  
Door County, WI  
Kewaunee County, WI  
Manitowoc County, WI

### **EPA Must Ensure That Interstate and Intrastate Areas Have Comprehensive, Coordinated Boundaries**

We also are deeply concerned by the recommendations to split up intrastate and intrastate areas that are inextricably linked. For example, New Hampshire has recommended that its portion of the Boston C/MSA be designated as a separate nonattainment area. But Massachusetts did not request such a separation in its nonattainment designations. New Hampshire also only requested nonattainment designation for certain cities in its counties that are considered part of the Boston C/MSA, rather than for the entire counties. The VOC and NO<sub>x</sub> emissions of Rockingham County in New Hampshire are comparable to the emissions in certain counties of the Boston area, and are at about 17,000 tons of VOCs and 20,000 tons of NO<sub>x</sub> emitted annually. Pollution sources in these New Hampshire counties contribute to nonattainment in the greater Boston area. The effect of designating the New Hampshire counties as a separate nonattainment area will likely mean a lower design value and lower classification for the New Hampshire area. This approach will undermine intergovernmental coordination and integrated, rational planning in

addressing unhealthy ozone levels and will fail to adequately protect public health across the interstate C/MSA.

We have found numerous other examples of states requesting the splitting up of C/MSAs into separate nonattainment areas without any reasoned explanation, including the following:

- Augusta-Aiken, GA-SC Split between Richmond County, GA and part of Aiken County, SC
- Chicago-Gary-Kenosha, IL-IN-WI: Kenosha County, WI was inappropriately put in the Milwaukee nonattainment area even though it shares its monitors with both Chicago and Milwaukee
- Cleveland-Akron area (OH)
- Detroit-Ann Arbor-Flint area (MI)
- Grand Rapids-Muskegon-Holland area (MI)
- Greater New York area (NY-NJ-CT-PA)
- Greenville-Spartanburg-Anderson area (SC)
- Hickory-Morganton-Lenoir area (NC)
- Knoxville Area (TN)
- Los Angeles-Riverside-Orange County area (CA)
- Memphis area (TN-AR-MS)
- Washington-Baltimore-Northern Virginia area (D.C.-VA- MD-WV)
- Youngstown-Warren-Sharon area (OH-PA)

Political considerations are not a permissible basis for excluding portions of intrastate or interstate areas from a nonattainment designation. To the contrary, it is especially important that comprehensive, coordinated nonattainment boundaries are promulgated in areas spanning multiple jurisdictions to facilitate cooperation and coordination between the various governmental entities and to expeditiously address these regions' ozone problems.

#### **Areas Monitoring Violations of the 8-Hour Ozone Standard After the Submittal of State Recommendations Must Be Designated Nonattainment**

There are several areas that have violated the 8-hour ozone standard since the state recommendations were submitted. EPA must base its final nonattainment designations on the most recent data and ensure that all areas violating the standard based on 2001-2003 data are in fact declared nonattainment. Denver, Colorado and San Francisco, California, for example, are two major metropolitan areas that violate the health-based ozone standard based on 2001-2003 data.

EPA must ensure that the full Denver C/MSA is designated nonattainment along with all of the counties encompassing Rocky Mountain National Park and those counties with sources contributing to nonattainment. Designating the entire airshed as nonattainment will ensure comprehensive, effective planning and is especially important given the far-reaching high ozone concentrations across the Front Range. For example, numerous ozone exceedances have been recorded the past two summers at Rocky Mountain National Park. We recommend that EPA

designate the Denver CMSA and Elbert, Grand, Larimer and Morgan Counties as nonattainment for ozone. We also recommend that the full San Francisco CMSA be designated nonattainment.

\* \* \*

Thank you for your consideration of our concerns.

Sincerely,

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