

Lake Michigan Air Directors Consortium

MEMORANDUM OF AGREEMENT FOR INTERSTATE AIR POLLUTION STUDY AND CONTROL

Introduction

In 1989, the States of Illinois, Indiana, Michigan and Wisconsin, in conjunction with the United States Environmental Protection Agency (USEPA), began to work together to address the elevated levels of ozone air pollution in the Lake Michigan area. At that time, many parts of the Lake Michigan area were exceeding the 1-hour National Ambient Air Quality Standard (NAAQS) that was established by USEPA, pursuant to the federal Clean Air Act.

In 1991, the four States and USEPA entered into a Memorandum of Agreement (1991 MOA) that established the Lake Michigan Air Directors Consortium (LADCO) as the organization to oversee the technical analysis of ozone formation in the Lake Michigan area and to develop a shared strategy for the reduction of ozone and ozone precursors.

Since 1991, numerous state and federal control actions have been implemented that have resulted in improvement in ozone air quality levels. Based on the most recent three-year period (2000-2002), the 1-hour ozone NAAQS is being met in most of the Lake Michigan area. Nonetheless, there remain measured violations of the 1-hour ozone NAAQS in the Lake Michigan area. Additional emission reductions will be necessary to achieve the 1-hour ozone NAAQS in all parts of the Lake Michigan area.

Also since 1991, USEPA adopted a number of other air quality regulations concerning ozone, fine particulate, regional haze, and other air pollutants. For example, in 1997, the USEPA adopted a new, more stringent 8-hour ozone NAAQS and a new fine particulate (PM_{2.5}) NAAQS. In October 1998, the USEPA promulgated a rule (NO_x SIP Call) aimed at reducing the interstate transport of ozone and ozone precursors. Finally, on July 1, 1999, the USEPA finalized a comprehensive rule (Regional Haze Rule) to address visibility impairment in the mandatory federal Class I areas, pursuant to Section 169A of the federal Clean Air Act.

In 2000, the Lake Michigan States entered into another MOA (2000 MOA) that reaffirmed the States' intent to reach consensus agreement on a regional control strategy that will attain the 1-hour ozone NAAQS in the Lake Michigan area. The 2000 MOA also called for the States to begin to evaluate the impact that other air quality regulations will have in the States, including regulations for ozone (8-hour), fine particulate, air toxic contaminants, and regional haze/visibility impairment. In addition, LADCO and the State of Ohio signed an MOA to form the Midwest Regional Planning Organization to address the issues related to the federal regional haze program, and pollutants such as fine particles that contribute to regional haze.

Looking ahead over the next several years, the States of Illinois, Indiana, Michigan, Ohio, and Wisconsin (the States) believe that multi-state, multi-pollutant planning is necessary to support the development of effective control plans to address regional pollution problems, such as ozone, fine particles, regional haze, and air toxics. To this end, the States commit to a continued partnership to ensure expeditious compliance with federal public health and welfare air quality standards.

Intent

This Memorandum of Agreement (2004 MOA) rescinds and replaces the 2000 MOA and reaffirms the cooperative effort by the States and the USEPA to:

- (1) achieve sufficient emission reductions to provide for attainment of the 1-hour ozone NAAQS in the Lake Michigan area,
- (2) identify, evaluate, and implement sufficient emission reductions to provide for attainment of the NAAQS for 8-hour ozone and PM_{2.5} and achieve the reasonable progress goals for regional haze throughout the five-state region; and
- (3) address other regional air pollution issues, including air toxics.

Guiding Principles

The States have adopted the following principles with respect to the scope and nature of the activities to be undertaken by LADCO:

- (1) The main purpose of LADCO is to provide technical assessments for and assistance to its member States on air quality issues and to provide a forum for its member States to discuss air quality issues.
- (2) LADCO's major pollutants of concern are ozone, fine particles, and regional haze and their precursors; however, issues related to other pollutants (such as air toxics) may be assessed at the direction of the member States.
- (3) LADCO's primary geographic focus is the area encompassed by its member states and any areas which may affect air quality in its member States. LADCO may also focus on areas in other states that may be affected by air pollutants from our States or that may affect the member States. Furthermore, at the direction of the member States, LADCO may conduct activities that are national in scope.
- (4) LADCO shall take action at the agreement and direction of all of its member states and shall strive for consensus in its deliberations. When appropriate and when all agree, LADCO shall take positions on behalf of its member States. LADCO shall take no independent positions. LADCO member States may represent LADCO's consensus positions.

- (5) LADCO staff shall prepare technical assessments as agreed and directed by the member States and shall participate in discussions to interpret the results. LADCO staff shall assist in briefings and in framing issues at the direction of the member States. When appropriate, LADCO may conduct assessments for individual member States.
- (6) When appropriate and when all agree, LADCO may from time to time seek input from or collaborate with other states on common air quality issues.
- (7) LADCO may seek the advice of regulated industries, local governments, public interest groups, or others on matters related to air quality issues. LADCO maintains and reserves the right to limit the scope of any such discussions.
- (8) LADCO member States shall share in the cost of operations and activities. Budgets shall be submitted and approved annually. When appropriate, member states may make “in-kind” contributions in lieu of funds, provided that such action shall not increase the amount of funds required from any other state. In setting the annual budget, the member States may consider what activities constitute in-kind contributions and what value to be assigned to these activities.
- (9) Upon agreement of all members, other jurisdictions may be invited to join LADCO, provided that any jurisdiction seeking to do so agrees to assume the responsibilities of membership and to share in the cost of operations. The LADCO States may establish different levels or categories of membership for new members. In the alternative, LADCO may enter into a memorandum of agreement with other jurisdictions as appropriate (e.g., work with Ohio or tribes for purpose of the Midwest Regional Planning Organization).
- (10) These principles may be augmented by more specific directions, provided that all members agree.

Organization

The States have determined that the existing committee structure will be used to manage the development and evaluation of control strategies, research, modeling, and other activities, to wit:

The Policy Steering Committee, consisting of the Governor or the Environmental Director of each member State and the Regional Administrator of USEPA, Region 5, or his designee (as a non-voting member), shall provide overall policy direction to the Consortium and shall serve as the forum for the resolution of disputes. By agreement of the States, every effort will be made to reach consensus on all major issues. The Policy Steering Committee shall meet as appropriate to oversee the progress of the efforts.

The Technical Steering Committee, consisting of the Directors of the Air Quality offices of each member State and the Director of the Air and Radiation Division of USEPA, Region 5, shall be responsible for the day-to-day management of the development and evaluation of control strategies, research, modeling, and other activities. The Technical Steering Committee shall meet as necessary to carry out these duties.

The Strategy Project Team, consisting of two representatives from each member State and two members from USEPA, shall carry out the directions of the Technical Steering Committee and guide the technical aspects of the Consortium's work and activities. The States recognize the operations of the Strategy Project Team as a high priority and agree to make every reasonable effort to ensure that the designated representatives receive support for their full participation in the effort. The Strategy Project Team shall meet on a regular basis and will form subcommittees as appropriate to address specific concerns.

Contractual Arrangements and Professional Staff

The States recognize that Consortium staff possess significant experience and expertise in the field of air pollution modeling and related activities and may direct the staff to assist in the program of work and activities outlined by the Technical Steering Committee. In addition, with the approval of the Technical Steering Committee and provided that funds are available, the Consortium may retain outside contractors to provide specific services to support its work and activities.

Funding

The States recognize the importance of securing adequate funding, whether public or private, to carry out the work and activities of the Consortium in support of the States. Every effort will be made to continue to secure funding from USEPA through a line item appropriation, through designation as a regional modeling center, and through other accounts.

The States agree to contribute funds from their federal Clean Air Act Section 105 grants, from general state appropriations, or from other sources available to them. The States agree to share equally in this contribution. Consortium staff shall prepare an estimated budget each year with sufficient lead time to allow for all necessary state financial arrangements to be made. Funding from private groups may also be sought and applied to the Consortium's expenses upon unanimous agreement or consent of the member States.

Term of Agreement

This 2004 MOA shall take effect for the States of Illinois, Indiana, Michigan, Ohio, and Wisconsin upon full execution by all signatories, and shall continue in effect until one or more of these States elect to withdraw. Any signatory to this agreement may elect to

withdraw from the agreement by providing written notice to the other signatories sixty (60) days in advance of such action. In the event that changes to this MOA are considered appropriate, it may be modified by unanimous agreement among the signatories.

For the State of Illinois:

Title: Director, Illinois Environmental Protection Agency Renee Cipriano	Date
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For the State of Indiana:

Title: Commissioner, Indiana Department of Environmental Management Lori F. Kaplan	Date
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For the State of Michigan:

Title: Director, Michigan Department of Environmental Quality Steven E. Chester	Date
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For the State of Ohio:

Title: Secretary, Ohio Environmental Protection Agency Christopher Jones	Date
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For the State of Wisconsin:

Title: Secretary, Wisconsin Department of Natural Resources P. Scott Hassett	Date
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