

LAKE MICHIGAN AIR DIRECTORS  
CONSORTIUM

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FILE COPY

November 15, 1993

Mary Nichols  
Assistant Administrator for Air and Radiation  
United States Environmental Protection Agency  
Washington, DC 20460

Dear Ms. Nichols,

As the directors of the air quality agencies of the States of Illinois, Indiana, Michigan, and Wisconsin, and the Lake Michigan Air Directors Consortium, we offer our congratulations to you on your appointment as Assistant Administrator for Air and Radiation. Your background and experience will bring a fresh perspective to air quality regulation, and your appointment is a confirmation of the new approach to environmental matters which the Clinton administration has promised.

It is in this spirit of a new beginning that we raise what has become an all too familiar issue. The United States Environmental Protection Agency was required by Section 183 of the Clean Air Act Amendments of 1990 to prepare Control Techniques Guidance (CTG) documents for thirteen new stationary source categories. These CTGs were, by law, to have been completed by November 15, 1993. To date, drafts on most of the categories have been completed, although none has been finalized. All of the drafts are more than a year old. Moreover, the original list of thirteen CTGs has been reduced, as USEPA has decided to pursue a national rule or a "reg neg," rather than the guidance document approach, for some categories of sources. Two of the remaining CTGs were to have been completed this past summer, but have yet to be released. It is our understanding that the remaining CTGs will not be completed until some time in 1994, at the earliest.

As you well know, each state with a county or MSA classified as a moderate or above non-attainment area for ozone must submit a

plan in November of this year for reducing emissions of volatile organic compounds (VOCs) by 15% by 1996. Emission reductions associated with the new CTGs are essential to the achievement of the required reductions in Illinois, Indiana, Michigan, and Wisconsin.

USEPA's continued failure to produce the CTGs as required by law has placed each state which must submit a 15% plan in a truly ineffective position. States must now develop and implement regulations in a very short period of time, without the benefit of EPA guidance, further straining state resources that have already been stretched by our other requirements. Given this lack of guidance, it is likely that regulations will differ from state to state, and that some state regulations will differ from those which are eventually promulgated by USEPA. If the state regulations are less stringent than the federal requirements, it is possible that the affected industries will have installed pollution control equipment which would then be rendered obsolete when EPA guidance is issued. On the other hand, if the state regulations are more stringent, we would be accused of putting our industry at a competitive disadvantage, a factor which could lead to the transfer of firms and jobs to other jurisdictions.

Both of these alternatives suggest that the most logical and least damaging course of action is to wait for the federal guidance, or to submit a SIP which assumes emissions reductions for each of these categories, with a commitment to adopt federal rules when promulgated. Yet this path also leads the states to federal sanctions and citizen lawsuits for our failure to comply with the law and to meet our deadlines.

In spite of the negative consequences for us, we feel that Congress acted wisely in establishing the sanctions process. Any entity which fails to fulfill its legal obligations should be held accountable. Yet here is an instance in which EPA's failure to comply with the law may result in undue hardships and even sanctions, not on the offending agency, but on the intended beneficiaries.

While we feel strongly that EPA must be at least as accountable as the states in meeting its obligations, we are not interested in punishment, but in results. Therefore, we would recommend that one of two alternatives be adopted. The preferred solution would be for EPA to commit to completing the CTGs within a relatively short and specific time, while allowing the states to submit committal SIPs for the sources covered by the CTGs. If this is not acceptable, EPA should publicly acknowledge that the CTGs will not be completed on the federal level, and should provide additional assistance to those states which must develop regulations for these sources.

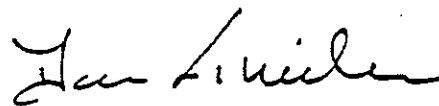
The passage of the Clean Air Act Amendments of 1990 was a monumental accomplishment, involving many individuals and groups from within and outside of government agencies. Implementation of the legislation will be one of the major challenges of the decade, and will require a higher level of cooperation among federal, state, and local governments as well as private organizations. It is in the spirit of cooperation that we urge you to resolve the issue of the CTGs, and to call upon each of us for any assistance we can provide in achieving our common goals.

Thank you for your consideration, and once again, congratulations.

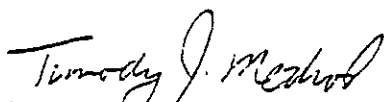
Sincerely,



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Illinois EPA



Donald Theiler, Director  
Bureau of Air Management  
Wisconsin DNR



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