



April 15, 2004

Michael O. Leavitt  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
Washington, DC

Dear Administrator Leavitt:

EPA's recently proposed Interstate Air Quality Rule (IAQR) requested comment on extending the rule to the West to address the impact of NO<sub>x</sub> and SO<sub>2</sub> emissions from electric utilities on regional haze. While the WRAP has many questions that need to be answered before taking a position, we believe extending the IAQR to the West may be an important opportunity and is certainly worthy of further discussion and investigation.

At our Board meeting in Tempe on April 7th, the WRAP discussed an initial list of key principles that should be addressed in any proposed rule that includes the West. We have enclosed these "Key Principles" and request that they be addressed in any proposal to extend the IAQR to the West. These key principles are not exhaustive but provide a starting point for further discussion.

The WRAP has initiated a process to evaluate a Western program under the IAQR in more detail, and we will accelerate this process to develop additional information to inform our decisions. EPA's assistance and collaboration to analyze and understand IAQR options for the West are essential. This ongoing process will certainly yield additional questions that we will need to address with EPA, and we will communicate these questions as they are identified.

One of the key issues at this point is to evaluate the potential for NO<sub>x</sub> reductions in the West based on the aggressive application of combustion control technology to all existing units. Therefore, it is important that EPA include a range of possible Western NO<sub>x</sub> caps in any proposed rule.

EPA and the WRAP must work in partnership during the rule-making process to identify the appropriate caps and other major program elements of any program for Western states and tribes. It is important for EPA to understand that the WRAP views this process as a partnership with EPA to develop a potential program for the West. As we move ahead, it will be essential for EPA to include consensus recommendations from the WRAP if an IAQR program for the West is to be successful.

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Western tribes will continue to work with the WRAP on the IAQR, but it is important to point out that the tribes participating in the WRAP do not represent all Western tribes, and EPA should not construe discussions with the WRAP to constitute consultation with all Western tribes. EPA should conduct a targeted effort to inform all Western tribes, consult with all Western tribes on their questions and concerns regarding the IAQR, and respond to tribal issues in any rule. The WRAP is prepared to assist with this effort as appropriate. One particular issue is for EPA to work with all Western tribes and the WRAP to negotiate the issue of tribal set-asides for NOx and SO2 under the IAQR.

We appreciate EPA's recent efforts to inform the WRAP about the IAQR and look forward to working with the Agency to determine how a Western program under the IAQR could further our mutual objective to improve air quality.

Sincerely,

  
Janet Napolitano  
Governor of Arizona  
WRAP Co-Chair

  
Fred S. Vallo, Sr.  
Governor, Pueblo of Acoma  
WRAP Co-Chair

**Western Regional Air Partnership**  
**“Key Principles for Extending the IAQR to Western States”**  
**April 15, 2004**

**General**

- If the IAQR is extended to the West, it should provide a more efficient method for accomplishing the objectives of the regional haze rule.
- Western caps under the IAQR must be set at a level that is consistent with the SO<sub>2</sub> and NO<sub>x</sub> principles below, satisfies the BART requirement of the regional haze rule, and satisfies the contribution to reasonable progress through 2018 for covered sources.
- Non-EGU sources should have the ability to opt into the program, with provisions to ensure appropriate emission reductions and monitoring.
- The IAQR should not substitute for existing state or tribal authority to address NAAQS compliance/maintenance or other localized air quality impacts.
- EPA must consult with all Western tribes on the IAQR to exercise the government-to-government relationship between tribes and the federal government.
- Western caps under the IAQR should account for existing rule and permit conditions on covered sources, especially those cases where an existing rule or permit condition may be more stringent than emission levels under the IAQR (e.g., California sources).

**SO<sub>2</sub> Principles**

- The IAQR should preserve the WRAP SO<sub>2</sub> agreements, including:
  - 271,000 tons per year of SO<sub>2</sub> from EGUs in the 9-state transport region in 2018 based on actual emissions
  - Allowances under IAQR must be allocated accordingly. This means that no less than 271,000 tons per year in allowances should be allocated under the national SO<sub>2</sub> trading program to Western EGU sources, equivalent to the utility portion of the WRAP milestones (271,000 in 2018). But these sources may not use allowances to emit collectively more than 271,000 tons in 2018.
  - Interim milestones consistent with the WRAP Annex and the need to assure reasonable progress, with an equivalent level of allowances.
  - The 20,000 ton per year SO<sub>2</sub> set-aside for tribes under the Annex.

- Provide for additional western states and tribes to be incorporated under the Western SO<sub>2</sub> cap, with adjustments to the cap determined in a manner that is compatible with the WRAP Annex and adequate to address the regional haze requirements and environmental concerns of the additional states and tribes.

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

- Tailor a NO<sub>x</sub> program for the West consistent with Western environmental concerns.
- Develop a NO<sub>x</sub> cap for Western EGUs that reflects cost effective emissions reductions based on the aggressive application of combustion controls to all existing EGU sources. For purposes of arriving at a cap number, it will be important to analyze the availability of cost-effective combustion control technology for different kinds of boilers.
- If the IAQR NO<sub>x</sub> program is expanded to cover the entire United States, EPA should establish boundaries for a Western trading zone that are protective of public health nationwide, achieve a high level of environmental improvement appropriate for the zones established by this program and implemented considering the need for a robust market.

### **Regulatory Certainty**

Sources subject to these caps agree to reduce emissions of NO<sub>x</sub> and SO<sub>2</sub>. By doing so, these sources will satisfy BART and their contribution to reasonable progress through 2018. With further discussion needed, EPA and FLMs should provide sources subject to the IAQR with appropriate regulatory flexibility and certainty, as allowed by law, with respect to NO<sub>x</sub> and SO<sub>2</sub> emissions.