



May 10, 2002

Mr. Patrick Cummins
Western Governors' Association
1515 Cleveland Place
Suite 200
Denver, Colorado 80202

Dear Pat:

The Western Business Roundtable (WBRT) appreciates the opportunity to provide comments in response to the Western Regional Air Partnership (WRAP) Initiatives Oversight Committee (IOC) memorandum dated April 22, 2002 regarding two proposed options for preserving the sulfur dioxide (SO₂) Annex in federal multi-pollutant legislation for electric utilities.

As the IOC points out, the timing of federal multi-pollutant emissions legislation, including President Bush's Clear Skies Initiative, remains uncertain. However, western states and tribes must implement the WRAP program under established regulatory deadlines. For this reason, the WBRT believes the work of the WRAP as authorized under current law should continue until it can be integrated into, or superseded by, an acceptable comprehensive multi-pollutant emissions program. It needs to be recognized, however, that states that are currently uncertain whether or not they will file state implementation plans (SIPs) under section 308 or under section 309, could be deterred from participating in the 309 process if it becomes likely that multi-pollutant legislation will be enacted.

On a separate but equal track, WBRT encourages the WRAP to affirmatively address comprehensive national multi-pollutant legislation. WBRT welcomes the Administration's Clear Skies Initiative as described on February 14, 2002 and we strongly support a comprehensive proposal that will streamline current regulations and facilitate investment in the West. WBRT looks forward to working with the WRAP on a regional approach for nitrogen oxides (NO_x) and on possible particulate matter (PM) emission milestones for the West. In addition, as the process moves forward we want to work closely with the Administration and EPA on national emission limits for SO₂, NO_x, and mercury.

WBRT Position on the WRAP's Proposed Options for Preserving the SO₂ Annex in Federal Multi-Pollutant Legislation for Electric Utilities

The WRAP SO₂ program is an all-inclusive program that attempts to address the needs of both utility and non-utility sources in the West, as well as the needs of the states and tribes, while the current new multi-pollutant emission proposals are focused solely on the utility sector. Consequently, WBRT believes that neither of the WRAP's proposed options for preserving the SO₂ Annex fully addresses the needs of the West.

The first option appears to be better for the non-utility sector because it preserves the Annex in its entirety, including the certainty, which was negotiated for the non-utility sector. However, in the context of a national emissions reduction program, this option may not be best for Western utilities because it does not allow for nationwide emissions trading.

The second option, on the other hand, has elements that may be best for Western utilities because it does allow for nationwide trading. However, it does not address the need for certainty for the non-utility sector.

Under both options 1 and 2, the WBRT believes that the West may be limiting itself to less than full competitive and environmental advances that are potential under a new comprehensive national multi-pollutant legislation. These two options may have the unintended consequence of driving states that are uncertain whether to file SIPs under 309 or not, away from the 309 process as they seek clarification on the timing and details of a national multi-pollutant emission program. Therefore, WBRT strongly advocates a third option that contains the following elements:

WBRT PROPOSED OPTION 3

Maintain a separate track for WRAP under existing law and create a new track for evaluation of and participation in the creation of new national multi-pollutant legislation.

Essential elements for inclusion in a national multi-pollutant program:

- An allocation mechanism for western non-utility sources;
- An allocation mechanism that recognizes tribal interests;
- An allocation mechanism that includes set asides for new sources;
- A national emissions trading program that includes the West's utility and non-utility sectors;
- Establish SO₂ emission limits for states outside of the WRAP region that allow for fuel switching to low sulfur coal as a compliance option;
- Establish emission limits that maintain the ability for a diversified fuel mix in the West;
- In order to hold the WRAP together, the WRAP timeframes may need to be adjusted to be consistent with national multi-pollutant emissions legislation.

Properly drafted, streamlined regulations will benefit western state economies, industries and utilities. In addition, a properly constructed new national multi-pollutant program should implement true reform of the Clean Air Act by eliminating duplicative, unnecessary programs. It would address Regional Haze more comprehensively, and therefore should supersede BART, the current Regional Haze regulations, and the backstop market trading program. In addition, New Source Review (NSR) should be reformed, the mercury Maximum Achievable Control Technology (MACT) standard should be superseded, and some other existing Clean Air Act programs may need revision as well. Retaining duplicative, inconsistent or more stringent regulations than those required under a properly written comprehensive revision of the Clean Air Act would competitively disadvantage western state economies, utilities and industries.

WBRT believes this third option would appropriately position the WRAP's expertise and collaborative processes into the formation of a comprehensive, national multi-pollutant emissions program. It would facilitate in the national debate many of the environmental management principles that have been endorsed by Western Governors and that are important to our region, including: markets before mandates,

collaboration not polarization, national standards -- neighborhood solutions, and rewarding results not programs.

The Role of the WRAP Under a Comprehensive Federal Program

The WRAP process that produced the SO₂ emission reduction program was a consensus, compromise process. None-the-less, the WBRT recognizes there are interests in the West that do not believe the program is as good as it could be. In the development of a comprehensive federal program, WBRT continues to see a role for the WRAP consistent with the current role in the organizational charter. The charter states, that:

"The WRAP has no regulatory authority and recognizes that all legal authority is reserved by its members in accordance with existing law."

In addition,

"The organization will provide a coordination mechanism with regard to science and technology support for policy and programmatic uses in the western United States."

WBRT believes the continuation of the WRAP as a clearinghouse for information, and for providing technical support and coordination for the states and tribes, will be important under any eventual national multi-pollutant program. In addition, we support the stakeholder process, which allows for the development of Western solutions to Western problems.

WBRT appreciates your consideration of our suggestions and we look forward to continue providing input as this issue moves forward. If you have any questions or comments regarding the position of the WBRT, please feel free to contact Ruth McCormick of our staff at 703-549-1466 or by e-mail at ruth@westernroundtable.com.

Sincerely,



Duane Yantorno, Chairman
WBRT Air Quality Committee



Kelly Mader, Chairman
WBRT Energy Committee