UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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ATLANTA, GEORGIA 30303-8960

March 23, 2010

John Lyons, Director
Division for Air Quality
Kentucky Energy and Environment Cabinet
803 Schenkel Lane
Frankfort, Kentucky 40601

Dear Mr. Lyons:

Thank you for the December 5, 2008, submittal of the final attainment demonstration plan for the Kentucky portion of the tri-state Huntington-Ashland 1997 annual fine particulate matter ($PM_{2.5}$) nonattainment area. The tri-state Huntington-Ashland 1997 annual $PM_{2.5}$ nonattainment area is comprised of: Boyd County, Kentucky; Cabell and Wayne counties, West Virginia; Lawrence and Scioto counties, Ohio; and the partial counties of Lawrence in Kentucky, Mason in West Virginia, and Adams and Gallia in Ohio. The Kentucky portion of this tri-state nonattainment area consists of Boyd County and a partial of Lawrence County. This attainment demonstration contains a justification for a finding of insignificance for regional mobile source emissions from direct $PM_{2.5}$ and nitrogen oxides (NOx) in the Kentucky portion of the tri-state nonattainment area.

Pursuant to sections 93.118(e)(4) and 93.109(k) of the Transportation Conformity Rule (40 CFR Part 93, Subpart A), the U.S. Environmental Protection Agency (EPA) has reviewed Kentucky's attainment demonstration as well as the justification for the finding of insignificance for direct $PM_{2.5}$ and NOx emissions in the Kentucky portion of the 1997 annual $PM_{2.5}$ tri-state area. Section 93.109 (k) states that a regional emissions analysis is no longer necessary if EPA finds through the adequacy or approval process that a State Implementation Plan (SIP) demonstrates that regional motor vehicle emissions are an insignificant contributor to the air quality problem for that pollutant/precursor. A finding of insignificance does not change the requirement for a regional analysis for other pollutants and precursors and does not change the requirement for hot spot analysis. We have determined that the overall emissions of direct $PM_{2.5}$ and NOx in the Kentucky portion of the tri-state nonattainment area are an insignificant contributor to the air quality problem for these pollutants.

EPA opened the public comment period on the adequacy of the submitted SIPs by posting them to the EPA Office of Transportation and Air Quality's adequacy review website (http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm) on September 8, 2009. The comment period closed on October 8, 2009. No comments were received during EPA's adequacy comment period.

In a letter dated October 23, 2009, EPA informed the State of Ohio that regional mobile emissions of direct $PM_{2.5}$ and NOx are insignificant for transportation conformity purposes as well. EPA will review the adequacy of West Virginia's submittal in a separate action.

More information on SIPs and adequacy reviews is available on the EPA website. EPA will publish a notice in the Federal Register announcing our adequacy finding. The Federal Register notice will also announce the date that the adequacy finding becomes effective. The insignificance finding for the Ohio portion of this tri-state area is already in effect and is further discussed on the aforementioned website.

EPA notes that the District of Columbia (D.C.) Circuit Court issued a decision on July 11, 2008, vacating the Clean Air Interstate Rule (CAIR). North Carolina v. EPA, 531 F.3d 896 (D.C. Cir. 2008). On September 24, 2008, EPA and other parties in the case filed motions for rehearing asking the D.C. Circuit to reconsider its decision in the case. On December 23, 2008, the court granted EPA's motion for rehearing to the extent it agreed to remand CAIR without vacating it. However, the court made no other changes to the July 11 opinion, remanding the case to EPA for further rulemaking consistent with this opinion. Therefore, the CAIR rule remains in place, but EPA must promulgate another rule consistent with the court's July 11 opinion. EPA has reviewed the submittal and the insignificance finding, in light of the remand of the CAIR rule, and concluded that the submittal and the insignificance finding meet the conformity rule's criteria found at sections 40 CFR 93.118(e)(4) and 93.109(k). In particular, the submitted SIP demonstrates that it would be unreasonable to expect that this area would experience enough motor vehicle emissions growth that a violation of the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard would occur. EPA bases this conclusion on the overall emissions from all sources in the nonattainment area, the low percentage of mobile source emissions contributing to the total emissions in the area, the current state of air quality, and the absence of state and local motor vehicle control measures in the SIP for this portion of the nonattainment area.

If you have any questions or need additional information, please contact me or Richard A. Schutt, Chief, Air Planning Branch, at (404) 562-9033.

Sincerely,

Carol H. Kemker for

Kenneth R. Lapierre
Acting Director
Air, Pesticides and Toxics
Management Division

cc: Patricia Morris, EPA Region 5
Martin Kotsch, EPA Region 3