TOMMY G. THOMPSON

Governor
State of Wisconsin

June 30, 2000

Carol Browner, Administrator
U.S. EPA Headquarters, 1101A
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Ms Browner:

Thank you for the opportunity to comment on nonattainment areas for the Environmental Protection Agency's (EPA) proposed 8-hour ozone standard.

As you know, the 8-hour standard is currently considered void due to the 1999 action of the U.S. District Court in Washington, D.C. Given this, I must first ask why the EPA is going through the process of naming non-attainment areas for a standard that does not yet have the force of law?

In addition, I recommend that under any circumstances Walworth, Jefferson and Rock Counties maintain their status as attainment areas. While these counties are not attaining the 8-hour standard at the present time, our air quality modeling results show that after implementation of the NOx SIP Call and the Tier 2 and Low Sulfur Gasoline standards, these counties will easily attain the standard. Using EPA's proposed 8-hour attainment test, by 2007, our model indicates design values of 76 ppb, 76 ppb and 79 ppb respectively for Rock, Walworth and Jefferson Counties. It is not productive to burden these south-central Wisconsin counties with a nonattainment designation when there are already programs on the books that will alleviate the air quality problems in these areas.

Designating those counties as nonattainment places an unnecessary burden on them, because air quality standard violations result from transported pollutants rather than emissions in those counties. Walworth, Jefferson and Rock counties are basically rural counties without a large metropolitan area. Similar to other areas designated as rural transport for the 1-hour standard under the 1990 CAA amendments, local control programs in these counties are likely to be ineffective at reducing local ozone concentrations. Even the minimum of nonattainment area requirements, such as new source review and transportation conformity, add quite a burden, but provide little, if any, air quality benefit for a nonattainment area dominated by transport.

I urge EPA to use any flexibility in the Clean Air Act to find a creative solution that allows states to effectively deal with areas such as Rock, Walworth and Jefferson Counties. For instance, as part of your agency's original implementation plan for the 8-hour ozone standard, you created a "transitional" area nonattainment classification, meant for areas that would attain the 8-hour ozone standard after implementation of the NOx SIP Call. This might be a satisfactory approach to deal with areas such as Rock, Jefferson and Walworth Counties. Another approach to deal with transport affected counties may be the "rural transport" classification created under the 1990

P.O. Box 7863, Madison, Wisconsin 53707 • (608) 266-1212 • FAX (608) 267-8983 • e-mail: wisgov@mail.state.wi.us

Clean Air Act Amendments. That classification scheme worked well in areas such as Door County, Wisconsin. A FACA committee, advising EPA on implementation of the 8-hour ozone standard, created a third approach. Instead of identifying nonattainment areas, EPA could identify areas of influence and areas of violation. For regional pollutants such as ozone, this eliminates the problem of having nonattainment area provisions apply only in a relatively small portion of the area that contributes to the air quality problem.

Identification of nonattainment areas has two purposes: to define an area subject to control requirements and to inform the citizens of the area that they need to be concerned about the air quality in their area. In Wisconsin, we do not take this second purpose lightly. That is why our Department of Natural Resources staff will implement an aggressive outreach program in Jefferson, Rock and Walworth Counties to inform the citizens of poor air quality in the region. In fact, we have already started this outreach effort.

Furthermore, I believe it is unfair to designate as nonattainment those counties which meet Clean Air Act standards but happen to be in a statistical area which as a whole does not meet the standard. Despite the fact that Washington and Waukesha Counties meet the current 1 hour standard, they are considered nonattainment because they are in the Milwaukee statistical area. I request that counties modeled to meet the 8 hour standard and modeled not to contribute to nonattainment in other areas not be designated nonattainment under any new standard.

Finally, if a new standard is adopted, I would encourage the EPA to continue to allow Wisconsin to manage Clean Air Act requirements for Kenosha County, as was done for the 1-hour standard. While Kenosha County is in the Chicago CMSA, it only makes sense for air quality decisions for Kenosha to be made within Wisconsin.

Thank you again for the opportunity to express my concerns on this important air quality issue.

Sincerely,

TOMMY G. THOMPSON
Governor

cc: George Meyer – DNR Secretary
George Lightbourn – DOA Secretary
Brenda Blanchard – DOC Secretary
Terry Mulcahy – DOT Secretary
Ave Bie – PSC Chairperson