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Air and Radiation Docket and Information Center  
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**Re: Docket ID No. EPA-HQ-OAR-2009-0491**

Dear Commissioner Lisa Jackson:

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On behalf of the Adirondack Mountain Club (ADK), I would like to take this opportunity to comment on the Environmental Protection Agency's (EPA's) proposed rulemaking, Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone. ADK has a strong interest in the transport of NO<sub>x</sub> and SO<sub>2</sub>.

ADK appreciates the hard work and careful thought that the Agency put into this rule. Upwind air pollution must be regulated to protect New York's unique ecosystems that provide New Yorkers with clear air and water, and promote a strong tourism economy. Clean air contributes to a balanced and healthy environment. ADK is pleased that this rulemaking reflects the importance of upwind pollution management for this and future generations.

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We have a critical stake in the proposed Clean Air Transport Rule (CATR). Emissions of NO<sub>x</sub> and SO<sub>2</sub> from fossil-fueled electric power generating plants are harmful to human communities, aquatic life, and forest ecosystems in the Appalachians, Hudson Highlands, Catskills, Adirondacks, and White Mountains. We strongly feel that deep reductions in emissions of these pollutants are crucial, not only for New York State, but for the country as a whole.

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The Clean Air Transport Rule (CATR) suggests three alternatives for states to obtain emissions reductions. Each alternative requires States to create an individual state budget of emissions. ADK supports EPA's second alternative to allow plants to participate in trading emissions allowances while setting a pollution limit for each state and specifying the allowable emission limit for each power plant and allow some averaging. Under the cap and trade system, a region encompassing 31 states plus the District of Columbia would reduce emissions by 6.3 million annual tons for SO<sub>2</sub> and 1.4 million annual tons for NO<sub>x</sub> by 2014.

EPA's preferred alternative, which would allow for interstate trading among power plants, does not address the New York's problem with pollution hotspots. EPA acknowledges in this rulemaking that particular plants have very significant effects on very specific downwind regions. The preferred alternative, along with the first alternative to allow for unlimited trading within States and no interstate trading, do not address the regional pollution problems associated with upwind polluters.

While we do applaud any effort to reduce emissions of harmful pollutants, the Clean Air Interstate Rule significantly slowed the country's progress to bring all areas into attainment. Reduction requirements came too late and were not deep enough to meet existing Clean Air Act deadlines. Full-attainment may have been reached through the faithful implementation and enforcement of the existing Clean Air Act, which would allow an SO<sub>2</sub> cap of 2 million tons by 2012 and NO<sub>x</sub> cap of 1.25 million tons by 2010. Thus, ADK is pleased to support CATR's rule which have a much larger reduction at a sooner date.

While the cap and trade system for NO<sub>x</sub> and SO<sub>2</sub> may indeed achieve reductions on a national scale, it may also provide no relief at all in locations where pollution credits are used in lieu of real controls. New York's Adirondacks and Catskills are downwind of 70 large coal-burning plants in the Midwest. These plants burn coal without scrubbers or other pollution controls and produce as much as 80 to 90 percent of the air pollutants impacting the Northeast. A strong state emissions budget must be maintained and EPA must not allow trading to increase a State's budget. More importantly, trading restrictions must be put in place for specific regions where strong linkages, as evidenced in the proposed rule, cause a significant increase in downwind air pollution and restrict counties' abilities to achieve attainment and maintenance.

Air pollution in eastern national parks and wilderness areas has reached alarming levels. This pollution has been linked to many serious health effects, and has been found to kill thousands of people each year. This pollution also causes the acid rain that weakens our forests, and it contributes to the regional haze that has reduced visibility by over fifty percent in these areas. Over 30 years ago, Congress directed the EPA to immediately improve air quality in the parks. Despite this Clean Air Act requirement, the air, soils and waters of our parks are badly polluted. Any effort to further delay and dilute anticipated park cleanup programs takes us in the wrong direction.

Human activity has clearly made an impact on New York's native species, as acknowledged by this rulemaking. ADK has long revered the Adirondacks, Catskills, and the Finger Lakes regions for their exceptional landscapes. As a hiking organization, we treasure healthy forests. As canoeing and kayaking become more popular and feasible for the passive recreationist, so does the State's requirement to maintain an exceptional aquatic environment. Healthy streams and lakes must contain many species that thrive within them. This rulemaking recognizes the importance of clean air for allowing important species to thrive within their native habitats, on land and in water.

New York also has a direct stake in the proposed Mercury Rule. Like NO<sub>x</sub> and SO<sub>2</sub>, mercury can be transported hundreds of miles from its source. Across the country, more

than 12 million acres of lakes and 473,000 miles of rivers are contaminated by mercury.<sup>1</sup> Forty-four states and territories have issued advisories urging people to avoid or limit consumption of fish due to high levels of mercury.<sup>2</sup> In 2002, New York State alone had posted thirty-two health warnings for mercury covering 59,228 acres of our lakes. In fact, of the approximately 200 water bodies tested in New York, 38 have fish populations that are unsafe to eat because of mercury contamination.<sup>3</sup>

Mercury is a highly toxic chemical with effects on the central nervous system comparable to those of lead, especially for unborn fetuses and very young children whose brains are still developing. Children and fetuses exposed to mercury can suffer poor attention span and language development, impaired memory and vision, problems processing information, and impaired fine motor coordination.

A recent study by the Centers for Disease Control and Prevention estimates that 1 in 12 women of childbearing years in the U.S. have unsafe levels of mercury in their blood.<sup>4</sup> This means that approximately 300,000 children are born each year with a heightened risk for neurological and developmental problems related to mercury exposure.<sup>5</sup> Even more recently, EPA's scientists stated that this is an underestimate of mercury exposure and that as many as 630,000 children may be born each year with unhealthy levels of mercury in their blood.

Evidence continues to mount that mercury causes reproductive problems in wildfowl populations, such as loon and mallard ducks. A recent study by the BioDiversity Research Institute (BRI) and the U.S. Fish & Wildlife Service found that 17 percent of loons sampled in the Adirondacks had mercury levels high enough to affect their reproductive success and behavior. Due to its neurotoxic effects, mercury causes behavioral changes in loons, making them lethargic and decreasing normal activities such as foraging and incubation. Adult birds incubate and feed their young less, while chicks feed less and ride on their parents' backs less, making them more susceptible to predation and chilling.<sup>6</sup>

Electric power plants are the largest industrial source of mercury, emitting approximately 48 tons of mercury each year (approximately 30% of the country's mercury emissions).<sup>7</sup>

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<sup>1</sup> U.S. EPA, 2003. Update: National Listing of Fish and Wildlife Advisories. EPA-823-F-03-003. May.

<sup>2</sup> U.S. EPA, 2003. Update: National Listing of Fish and Wildlife Advisories. EPA-823-F-03-003. May.

<sup>3</sup> Talking Points

<sup>4</sup> Centers for Disease Control, January 2003. Second National Report on Human Exposure to Environmental Chemicals.

<sup>5</sup> Derived by the Clean Air Task Force from 2000 census data and fertility data from the National Center for Health Statistics

<sup>6</sup> Schoch, N. and D. C. Evers. 2002. Monitoring Mercury in Common Loons: New York Field Report, 1998-2000. Report BRI 2001-01 submitted to U.S. Fish Wildl. Serv. and New York State Dept.

Environ. Conservation. BioDiversity Research Institute, Falmouth, ME.

<sup>7</sup> U.S. EPA, 1997a. Mercury Study Report to Congress, Volume II: An Inventory of Anthropogenic Mercury Emissions in the United States. EPA-452/R-97-004.

Amazingly, power plants are the only major mercury polluters yet to be regulated under federal clean air standards. Thus, in large part, our nation's mercury problem is due to the fact that while other sources must meet strict emission limits, power plants continue to spew unlimited quantities of mercury into our air, where the rain and snow wash it into our rivers, lakes and oceans, and, ultimately, into our food chain.

In December 2000, EPA said that mercury is the hazardous air pollutant (HAP) of greatest concern and determined that "...regulation of HAP emissions from coal- and oil-fired steam generating units under Section 112 (c) of the CAA is appropriate and necessary." Listing of power plants under 112 (c) triggers regulation under Section 112 (d), which requires that all HAPs from sources listed be regulated using a "maximum achievable control technologies" (MACT) standard.

In 2001, EPA's scientists said that existing coal-fired power plants could achieve an average of 90 percent mercury reductions under a MACT standard, regardless of the type of power plant or the type of coal burned.<sup>8</sup> A more recent report from the Northeastern States for Coordinated Air Use Management also concluded that 90 percent mercury reductions are feasible. Up to 98 percent reductions have been observed in tests of other kinds of mercury controls. It has also been found that reductions can be accomplished very cost-effectively (on the order of 1/50<sup>th</sup> of a penny per KWh). According to the EPA, estimated costs for mercury control are similar to the costs associated with technologies currently used at power plants to control nitrogen oxide pollution. In 1999, in its multi-pollutant benefit report, EPA estimated that it would cost \$2.7 billion to install mercury-specific control technologies on all plants without scrubbers, resulting in mercury emissions reductions of 70-90 percent. EPA estimates that those costs could decline by an additional 40 percent. This cost is a mere fraction of the \$250 billion in revenue generated by the utility industry.

The lack of regulation put forward by the EPA our environment in danger of mercury pollution for far too long. Although EPA expects mercury reductions as an indirect result of the emissions controls of NO<sub>x</sub> and SO<sub>2</sub>, of which this rule directly addresses.

Under a cap and trade system, industry would essentially be given the option to decide which plants to clean up. Instead of determining where mercury needs to be reduced on the basis of science and environmental sensitivity, such determinations will be based on market dynamics. As it is, New York is downwind of Midwest plants that utilize the cheapest fuel—high sulfur, bituminous coal. These plants can operate fifty percent cheaper than plants utilizing natural gas or low-sulfur coal. Unfortunately, the cheapest fuel is also the dirtiest and the combustion of such fuel releases significant amounts of mercury into the atmosphere. Since these Midwest power plants have no incentive to switch to cleaner fuel sources, it would seem that the only way to limit harmful emissions from these plants is to require them to install mercury control technologies. However, ADK fears this will be slowed under a free market cap and trade system. Plants would be able to avoid making mercury emissions reductions by buying credits from plants in other

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<sup>8</sup> U.S. EPA presentation to Edison Electric Institute. December 4, 2001.

geographic locations that emit less than the standard. The bottom line is that market dynamics and the economics of fuel would lead to hot spots in New York. New York would continue to get mercury in levels that pose serious health and ecological threats.

ADK suggests mercury budgets for each state be based on science and that the EPA restrict trading of emissions based on the upwind and downwind “linkages” as reported in CATR.

Thank you very much for the opportunity to submit these comments on the proposed rule. Please contact me with questions you may have.

Respectfully submitted,

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Adirondack Mountain Club