



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SECRETARY

October 17, 2011

Mr. Samuel Napolitano, Director  
U.S. Environmental Protection Agency  
Office of Air & Radiation  
Clean Air Markets Division  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 6204J  
Washington, DC 20460

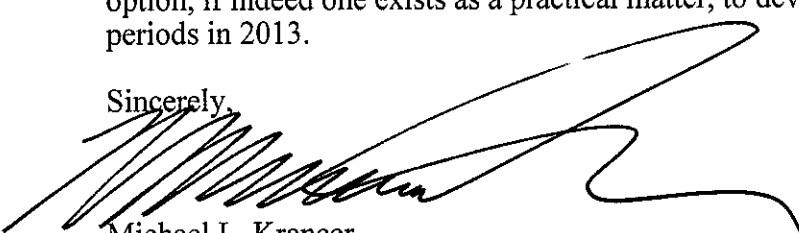
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Dear Mr. Napolitano:

As provided in the Cross State Air Pollution Rule (CSAPR), the Pennsylvania Department of Environmental Protection is notifying the U.S. Environmental Protection Agency (U.S. EPA) that the Commonwealth of Pennsylvania reserves the right to submit to U.S. EPA a complete State Implementation Plan (SIP) revision by April 2, 2012 that allocates, to units that commenced commercial operation before January 1, 2010, allowances for 2013 in the TR NO<sub>x</sub> Annual Trading Program, TR NO<sub>x</sub> Ozone Season Trading Program, and TR SO<sub>2</sub> Group 1 Trading Program under CSAPR.

Pennsylvania believes the CSAPR, insofar as it provides for the imposition of Federal Implementation Plans (FIP) for the control periods in 2012 and 2013, may run afoul of the Clean Air Act's mandate of cooperative federalism as outlined in Section 110(c) of the Clean Air Act, 42 U.S.C. § 7410(c). We are still analyzing that question. Also, it appears to us that the measures EPA is implementing for 2012 and 2013 through the FIPs applicable to Pennsylvania sources have very little to do with either public health or the environment. Having the FIPs apply in 2012 makes it impossible under any circumstances for this Commonwealth to develop and submit a SIP for 2012. That may very well be the case for 2013 as well, though we are still analyzing that question. While we are undertaking those analyses and others regarding CSAPR and EPA's proposed revisions to CSAPR, we are taking this opportunity because of deadlines imposed by EPA in CSAPR for doing so, to advise EPA that this Commonwealth is reserving its option, if indeed one exists as a practical matter, to develop and submit a SIP for the control periods in 2013.

Sincerely,



Michael L. Krancer  
Secretary

cc: Shawn M. Garvin, Administrator, EPA Region 3  
Diane Esher, Air Director, EPA Region 3