

## FACT SHEET

### Proposed Rule:

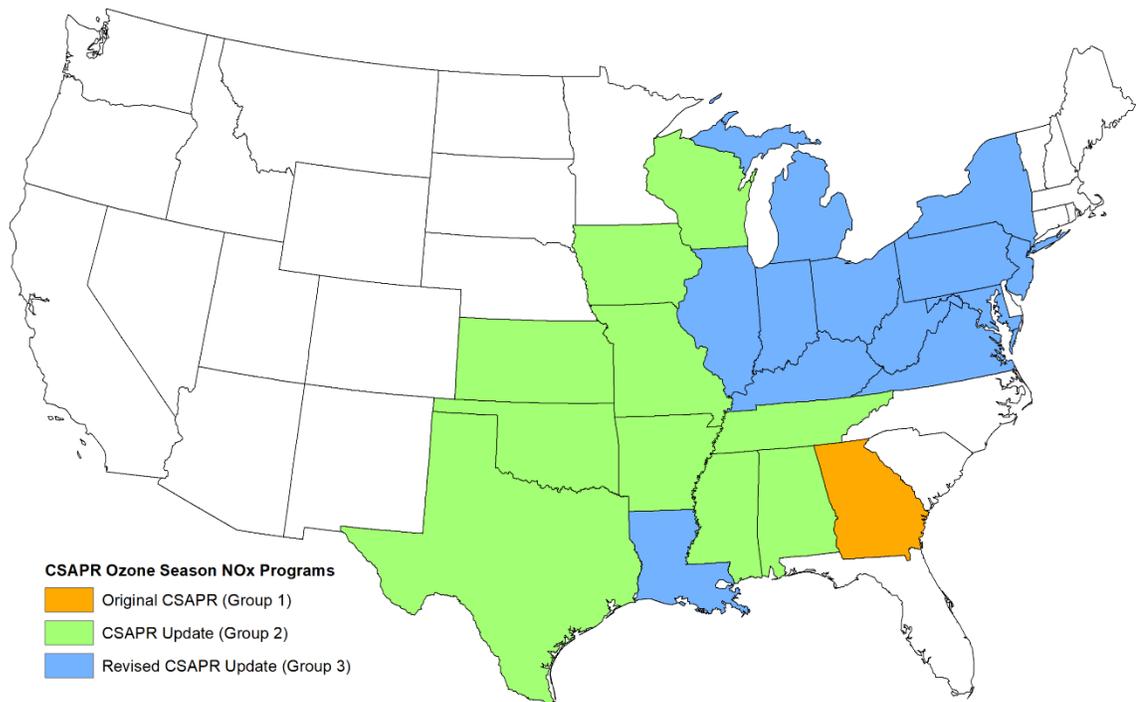
### Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS

#### SUMMARY OF ACTION

On October 15, 2020, the EPA proposed the Revised Cross-State Air Pollution Rule (CSAPR) Update in order to fully address 21 states' outstanding interstate pollution transport obligations for the 2008 ozone National Ambient Air Quality Standard (NAAQS). Starting in the 2021 ozone season, the proposed rule would reduce emissions of nitrogen oxides (NOx) from power plants in 12 states, improving air quality for millions of Americans.

The proposed rulemaking responds to a September 2019 ruling by the United States Court of Appeals for the D.C. Circuit, *Wisconsin v. EPA*, which remanded the 2016 CSAPR Update to EPA for failing to fully eliminate significant contribution to nonattainment and interference with maintenance of the 2008 ozone NAAQS from upwind states by downwind areas' attainment dates.

#### Cross-State Air Pollution Rule Regions



#### KEY FEATURES

EPA is proposing a rule that fully resolves 21 upwind states' remaining good neighbor obligations under the 2008 ozone NAAQS. Additional emissions reductions are required at power plants in 12 states based on optimization of existing, already-installed selective

catalytic reduction (SCR) controls for the 2021 ozone season and installation or upgrade of low NO<sub>x</sub> burners for the 2022 ozone season.

The proposal relies on EPA's latest data and modeling to assess air quality nonattainment and maintenance for the 2008 ozone NAAQS. EPA analysis found that, for 9 out of the 21 states for which the CSAPR Update was previously found to be only a partial remedy (Alabama, Arkansas, Iowa, Kansas, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin), their projected 2021 emissions do not significantly contribute to nonattainment and/or maintenance problems in downwind states. Thus, EPA proposes no further obligations for these states.

For the 12 remaining states (Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia), their projected 2021 emissions were found to contribute at or above a threshold of 1% of the NAAQS (0.75 ppb) to the identified nonattainment and/or maintenance problems in downwind states. EPA proposes to issue new or amended Federal Implementation Plans (FIPs) to revise state emission budgets that reflect additional emissions reductions from electricity generating units (EGUs) beginning with the 2021 ozone season.

In order to respect attainment deadlines as directed by the court in *Wisconsin v. EPA*, EPA must revise the existing CSAPR NO<sub>x</sub> ozone season program as quickly as possible to enable improvements in downwind ozone and to realize associated public health benefits by the 2021 ozone season, which corresponds with the 2021 Serious area attainment date under the 2008 ozone NAAQS.

This proposed action's FIPs would require power plants in the 12 linked states to participate in a new CSAPR NO<sub>x</sub> Ozone Season Group 3 Trading Program that largely replicates the existing CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, with the main differences being the geography and budget stringency. Aside from the removal of the 12 covered states from the current CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, this proposal leaves unchanged the budget stringency and geography of the existing CSAPR NO<sub>x</sub> Ozone Season Group 1 and Group 2 Trading Programs.

EPA also proposes to adjust these 12 states' emissions budgets for each ozone season thereafter to incentivize ongoing operation of identified emissions controls to address significant contribution, until such time that air quality projections demonstrate resolution of the downwind nonattainment and/or maintenance problems for the 2008 ozone NAAQS. As such, the proposal includes adjusting emissions budgets for each state for each ozone season for 2021 through 2024. After the 2024 ozone season, no further adjustments would be required under this proposed rulemaking.

EPA proposes to authorize a one-time conversion of allowances banked in 2017-2020 under the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program into a limited number of allowances that can be used for compliance in the CSAPR NO<sub>x</sub> Ozone Season Group 3 Trading Program. This approach gives due credit for the emissions reductions

represented by banked allowances, while also securing the additional reductions required in this proposed rulemaking.

EPA is proposing not to include limits on ozone season NO<sub>x</sub> emissions from non-EGU sources in this rulemaking. Using the best information currently available to the Agency, the proposed analysis suggests that there are relatively fewer emissions reductions available from the non-EGU controls EPA evaluated at a cost threshold comparable to the cost threshold selected for EGUs, and such reductions are estimated to have a relatively small effect on any downwind receptor in the year by which controls could likely be installed.

EPA also proposes an error correction for its June 2018 approval of Kentucky's good neighbor state implementation plan (SIP), which had concluded that the CSAPR Update was a complete remedy based on modeling of the 2023 analytic year. The approval relied on the same analysis that the D.C. Circuit determined to be unlawful in the CSAPR Close-Out, because it only addressed conditions in 2023 without a showing of impossibility regarding the next attainment date in 2021. Further, the partial FIP for Kentucky from the CSAPR Update was remanded and must be reassessed in this action, consistent with EPA's methodology to address the other 20 states with remanded CSAPR Update FIPs.

EPA is under a court order to finalize this proposed action by March 15, 2021.

### **BENEFITS AND COSTS OF EMISSIONS REDUCTIONS**

Ozone is linked to a variety of serious public health effects. Exposure to ozone can harm the respiratory system (the upper airways and lungs) and aggravate asthma and other lung diseases. Evidence indicates ozone also is likely to be one of the many causes of asthma development. Exposure to ozone is linked to early death from respiratory and cardiovascular causes.

Emissions of NO<sub>x</sub> can react in the atmosphere to create ground-level ozone pollution, or smog. These pollutants can travel great distances, often crossing state lines and making it difficult for some states to meet or maintain the national clean air standards that protect public health and welfare. Reducing transport of these pollutants across state borders would help downwind states meet and maintain the health-based NAAQS for ozone.

In March 2008, to better protect the health and welfare of Americans, EPA strengthened the national air quality standards for ozone by setting an 8-hour standard at 75 parts per billion (ppb) – and, among other things, triggered states' obligation to reduce transported pollution that could affect downwind areas' ability to meet the standard.

Reducing the transport of ozone season NO<sub>x</sub> pollution that crosses state borders would help downwind states meet and maintain these standards. The EPA estimates that, as proposed, the Revised CSAPR Update would reduce summertime NO<sub>x</sub> emissions from

power plants in the 12 linked upwind states by 17,000 tons in 2021 compared to projections without the rule. Due to this proposed rule and other changes already underway in the power sector, ozone season NO<sub>x</sub> emissions will be nearly 26,000 tons lower in 2021 than in 2019, a reduction of nearly 20 percent. The compliance costs of the program are estimated to be approximately \$20 million per year (2016\$) over the period from 2021 to 2025.

The proposed rule would help prevent premature deaths, reduce hospital and emergency room visits for people with asthma and other respiratory problems, help thousands of children and adults from missing school and work due to respiratory illness, and decrease asthma aggravation for thousands of Americans. These emissions reductions would also improve visibility in national and state parks, and increase protection for sensitive ecosystems including Adirondack lakes and Appalachian streams, coastal waters and estuaries, and forests.

## **BACKGROUND**

The Clean Air Act's "good neighbor" provision requires states to address interstate transport of air pollution that affects the ability of downwind states to attain and maintain clean air standards. The "good neighbor" provision requires states to submit State Implementation Plans, or SIPs, that reduce pollution that contributes significantly to air quality impacts in downwind states. The Clean Air Act gives EPA a backstop role to issue FIPs, as appropriate, in the event that states do not submit approvable SIPs. The Revised CSAPR Update proposal fulfills this backstop role.

This rule continues EPA's efforts since the 1990s to address interstate pollution, through rules such as the NO<sub>x</sub> SIP Call (1998) and the Clean Air Interstate Rule (2005). More recently, in 2011, EPA finalized CSAPR to address the Clean Air Act "good neighbor" provision to reduce interstate transport for the 1997 ozone NAAQS and the 1997 and 2006 fine particle NAAQS. Building on the methodology of prior rules, CSAPR employed a 4-step framework to address the requirements of the good neighbor provision for ground-level ozone NAAQS:

- Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS;
- Determining which upwind states contribute to these identified problems in amounts sufficient to "link" them to the downwind air quality problems (i.e., here, a one percent contribution threshold);
- For states linked to downwind air quality problems, identifying upwind emissions that significantly contribute to downwind nonattainment or interfere with downwind maintenance of the NAAQS; and
- For states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, implementing the necessary emissions reductions through enforceable measures.

In October 2016, EPA finalized the CSAPR Update to address summertime transport of ozone for the 2008 ozone NAAQS and update the CSAPR ozone season program. The CSAPR Update issued new and revised FIPs for 22 states in the eastern U.S. Based on information available at that time, EPA could not conclude that the rule fully addressed good neighbor obligations for 21 of the 22 CSAPR Update states (for Tennessee, the CSAPR Update was a full remedy).

In December 2018, EPA finalized the CSAPR Close-Out and, based on data and modelling, found that in 2023 there were no remaining nonattainment or maintenance receptors in the eastern US. Thus, EPA determined that the CSAPR Update fully addressed interstate pollution transport obligations under the 2008 NAAQS for ozone in 20 eastern states.

On September 13, 2019, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded the CSAPR Update in *Wisconsin v. EPA*, concluding that it unlawfully failed to eliminate significant contribution to nonattainment and interference with maintenance by downwind areas' attainment deadlines for the 2008 NAAQS. Today's proposal is EPA's response to the remand.

On October 1, 2019, the DC Circuit vacated the CSAPR Close-Out on the same grounds that it remanded the CSAPR Update in *Wisconsin v. EPA*. Specifically, the Close-Out Rule analyzed the year 2023 as opposed to 2021, the next applicable attainment date, and failed to demonstrate that it was impossible to address significant contributions by the 2021 attainment date.

## **HOW TO COMMENT**

EPA will accept comments on the proposed Revised Cross-State Air Pollution Rule Update for the 2008 NAAQS for 45 days after publication in the Federal Register.

Comments on the proposal, identified by Docket ID #EPA-HQ-OAR-2020-0272, may be submitted by one of the following methods. We encourage the public to submit comments electronically, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

- [Federal eRulemaking portal](#): Follow the online instructions for submitting comments
- Email: Send your comments via electronic mail to [A-and-R-Docket@epa.gov](mailto:A-and-R-Docket@epa.gov). Include docket ID No. EPA-HQ-OAR-2020-0272 in the subject line of the message.
- Fax: Fax your comments to 202-566-9744
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 28221T, Attention docket ID No. EPA-HQ-OAR-2020-0272, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

- Hand delivery or courier: Deliver your comments to EPA Docket Center, Room 3334, 1301 Constitution Ave, NW, Washington, DC 20460.

There will be a virtual public hearing for the Revised Cross-State Air Pollution Rule Update for the 2008 NAAQS in November 2020. The virtual public hearing provides interested parties the opportunity to present data, views or arguments concerning the proposed action. You can learn more about the hearing and how to register online at: <https://www.epa.gov/csapr/revised-cross-state-air-pollution-rule-update>.

### **FOR MORE INFORMATION**

To read or download a copy of the proposed rule, go to <https://www.epa.gov/csapr/revised-cross-state-air-pollution-rule-update> or <http://www.regulations.gov> (EPA's electronic public docket and comment system). The proposed rule is also available in hardcopy at the EPA Docket Center's Public Reading Room. Materials for this proposed action can be accessed using Docket ID No. EPA-HQ-OAR-2020-0272.

For further information about the proposed action, contact Dan Hooper of EPA's Office of Atmospheric Programs, Clean Air Markets Division, at 202-343-9167 or by e-mail at [hooper.daniel@epa.gov](mailto:hooper.daniel@epa.gov).