

U.S. Environmental Protection Agency

Virtual Public Hearing on
Proposed Revised Cross-State Air Pollution Rule
Update for 2008 Ozone NAAQS
1:00 p.m. - 3:00 p.m. (Eastern Time)
Thursday, November 12, 2020

EPA Panel:

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PROCEEDINGS

MR HOOPER: All right everyone, we're going to go ahead and get started. My name is Dan Hooper, and I work in EPA's Office of Air and Radiation and I'll be the Chair of today's virtual public hearing.

Because of the current CDC recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, we are holding this hearing virtually. For many of us, myself included, this is a first, so we appreciate your understanding and cooperation.

I would like to thank everyone for joining us today. We are here to listen to your comments on the EPA's proposed Revised Cross-State Air Pollution Rule Update for the 2008 Ozone National Ambient Air Quality Standards, also referred to as the Revised CSAPR Update.

Joining me on the panel are Elizabeth Selbst, also from EPA's Office of Air and Radiation, and Dan Schramm from EPA's Office of General Counsel.

The proposal was published in the Federal Register on October 30, 2020, and the comment period for the proposal is open for 45 days, until December 14, 2020.

The purpose of the proposed Revised CSAPR Update is to fully address 21 states' outstanding interstate pollution transport obligations for the 2008 ozone

National Ambient Air Quality Standard, also known as the NAAQS. Specifically, this proposal supports states' obligations to address the problem of air pollution that is transported across state lines and helps address EPA's backstopping role under the Clean Air Act's "Good Neighbor" provision.

Relying on EPA's latest data and air quality modeling, the proposal finds that for 9 out of the 21 states for which the CSAPR Update was previously found to be only a partial remedy, their projected 2021 emissions do not significantly contribute to nonattainment and/or maintenance problems in downwind states. EPA therefore proposes no further obligations for those nine states, which are Alabama, Arkansas, Iowa, Kansas, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin.

For the 12 remaining states, the proposal finds their projected 2021 emissions to contribute at or above a threshold of 1% of the NAAQS to nonattainment and/or maintenance problems in downwind states. These states are Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia. EPA proposes to issue new Federal Implementation plans that would revise state emission budgets to incentivize additional emission reductions from electric generating units in these 12 states beginning with the 2021 ozone season. Reducing ozone season NO_x emissions from power plants is an important step in reducing the air quality

impacts of interstate transport of ozone pollution with respect to the 2008 standard, and to improving the health of millions of Americans.

Before we get started, I'd like to go over how we will conduct this virtual hearing. We will be calling witnesses one by one for today's testimony. We emailed the order of the speakers to those registered for the hearing this morning. If you are a registered speaker, we ask that you monitor the list of speakers and be prepared to present your testimony when it is your turn to speak.

When we call your name, you will need to dial *6 to unmute yourself. Prior to making a statement, please state your name and spell it to help make sure we have an accurate transcript of these proceedings. Your comments will be transcribed and included in the record of comments on the proposed rule.

Each speaker will have up to five minutes to provide their verbal testimony. We will be monitoring each speaker's time. Out of respect for subsequent testifiers, we ask speakers to end promptly at five minutes or before.

If you would like to testify but did not request to speak in your registration, please send an e-mail to the same address that you used to register. We will try to accommodate everyone who wants to testify today.

We are here to listen to you today; however, a panel member may ask questions to clarify your comments. With that being said, we will not be responding to questions.

Thank you for taking the time today to share your comments on EPA's proposal.

I will now turn it over to my colleague Kimberly Liu to call on the first speaker.

MS. KIMBERLY LIU: Our first speaker is Neil Gormley from Earthjustice. You can hit *6 to unmute yourself and you have five minutes. Again, state your name and please spell it out.

NEIL GORMLEY, Earthjustice

MR. GORMLEY: Good afternoon, this is Neil Gormley. N-e-i-l, G-o-r-m-l-e-y, staff attorney at Earthjustice. I'd like to begin by thanking EPA staff for the opportunity to comment and for proposing at least some action to address the grave public health problem of interstate ozone pollution. Against the backdrop of four years of pro-polluter giveaways, this is a partial step forward and it stands out. Unfortunately, this proposal still allows large interstate contributions to unhealthy ozone levels to continue. EPA must strengthen this proposal in accordance with the Clean Air Act and finally put an end to this pollution. Here's my central

message. It's time for EPA to stop sacrificing human health for the sake of industry profits. EPA's decision to tolerate continued interstate pollution and resulting unhealthy ozone levels downwind condemns millions of Americans to elevated risk of asthma, inflammation, scarring of the lungs, and even death. Children, low income communities and communities of color suffer the worst impacts. Remember that we're talking here about continuing violations of the health standard adopted in 2008. Allowing this pollution to continue 12 years later and beyond is completely unacceptable. There's also no legal justification for EPA's passivity. The Good Neighbor provision is one of the most powerful mandates in the Clean Air Act. It simply directs EPA to prohibit pollution that will contribute significantly to nonattainment or interfere with maintenance of the standard and the DC Circuit has repeatedly instructed EPA to eliminate this pollution by the Clean Air Act attainment deadlines. What that means EPA must do is reduce interstate pollution to the level that eliminates upwind states' contributions to nonattainment and maintenance problems above the de minimis threshold. Anything less than that is unlawful undercontrol. EPA also must restrict the use of traded emissions credits to ensure that healthy air is actually achieved and that everyone benefits, including low income communities and communities of color disproportionately harmed by air pollution and by other systemic injustices. If EPA simply followed the statute and prohibited all the

pollution it's required to prohibit, the public health and environmental benefits would massively outweigh the cost. Electricity generators would comply cheaply by shifting generation to clean sources, bolstering the clean energy revolution that's already underway. Industrial polluters would adopt proven pollution reduction techniques that are long overdue and many millions of people would benefit from cleaner air. Thank you.

MS. KIMBERLY LIU: Thank you, Neal. Our next speaker is Liz Mueller from American Lung Association. Please hit *6 before proceeding.

[LIZ MUELLER, American Lung Association](#)

MS. MUELLER: This is Liz Mueller, L-i-z, M-u-e-l-l-e-r. Good afternoon. I want to thank you for providing the opportunity to comment on the proposed Revised Cross-State Air Pollution Rule. As I said, my name is Liz Mueller. I'm the National Director of Advocacy for the American Lung Association Healthy Air campaign. Our mission is to save lives by improving lung health and reducing lung disease. Reducing air pollution is a critical focal point for achieving that mission. One of the most dangerous air pollutants is ground level ozone, also known as smog. Ozone pollution aggressively attacks lung tissue by chemically reacting with it. Even low levels of exposure can trigger immediate dangerous health impacts, including shortness of breath, wheezing, asthma attacks and an

increased need for medical treatment in those with lung diseases like asthma or chronic obstructive pulmonary disease. It also increases the risk of respiratory infection, which underlines the urgency of reducing ozone levels while the country continues to battle a pandemic brought on by a respiratory infection. We appreciate that EPA is taking steps to address shortfalls identified by the legal challenges to the 2016 Cross-State Air Pollution Update. During the public comment period for the rule in 2016, we addressed the failure to incorporate the implementation of new pollution control strategies and encouraged the use of a phased approach to account for concerns of a lack of time to install new controls. Upon reading this current proposal, we note that this phased approach has been included with the understanding that new technology will be applied to further reduce emissions. We also note that EPA decided to set specific NO_x emission budgets for each year from 2021 to 2024. Enforcing specific budgets for electric generating units on a yearly basis will help ensure that those units continue to implement pollution control technologies, even if or when various units retire or the sector transitions to cleaner energy technology. While this update is a step in the right direction, we feel that it must be strengthened further if it is to successfully comply with the requirements under the Clean Air Act to fully protect public health. The proposed budgets for NO_x emissions operate under the assumption that aggressive reductions in emissions will not be feasible until the

2022 ozone season, when electric generating units have modern controls installed. As we emphasized during the public comment period for the 2016 update, existing NO_x controls can reduce pollution more than what EPA assumes. Additionally, EPA could exercise its authority under the Clean Air Act to reduce NO_x emissions by other methods while new technology is being developed and installed, such as requiring that coal plants don't operate on high ozone days. The urgency for creative and aggressive approaches to reduce NO_x emissions is underlined by the fact that this proposed rule is meant to comply with ozone standards that are too weak to adequately protect the public from harmful ozone pollution. The 2008 National Ambient Air Quality Standard for ozone is 75 parts per billion. The American Lung Association has advocated for an ozone standard of no higher than 60 parts per billion, and the research supporting that standard emerged in the last decade. In spite of it being based on an outdated standard, we encourage EPA to strengthen the current proposal so that it more aggressively enforces the cleanup of interstate transport of ozone pollution, setting states on a path to expeditiously meet the 2015 ozone standard of 70 parts per billion, as required by the Clean Air Act, and provide more protection for all who experience adverse health effects of air pollution. Communities dealing with pollution blowing in from across state lines have been waiting for nearly five years for this action to be taken and to see accountability enforced on the polluting states. EPA has taken steps to address

weaknesses in the original rule to make pollution reductions more enforceable. On behalf of the American Lung Association and the communities we serve, I call on EPA to strengthen the rule even further so that it can be more protective of public health. Thank you.

MS. KIMBERLY LIU: Thank you Liz. Our next speaker is Ann B. Weeks from the Clean Air Task Force. Again, please hit *6 before beginning.

[ANN B. WEEKS, Clean Air Task Force](#)

MS. WEEKS: Good afternoon, my name is Ann Weeks and I'm the Legal Director with the Clean Air Task Force. Clean Air Task Force seeks to protect public health and the environment from the impacts of harmful air pollution through research, analysis, and public and legal advocacy. First, I have to say, and I don't get to say this very often of late, we are pleased that EPA has responded so quickly to the New York District Court's directive to act. Although I also must say that this proposal includes actions that could have been taken way back when the CSAPR update was finalized four years ago. And of course it's disappointing to have had to litigate in 2020 to get this proposal for ozone smog reductions under a national standard that's been implemented in other ways for over a decade. As my colleagues Neil Gormley and Liz Mueller have addressed, ground level ozone smog is a significant public health problem, and as the planet continues to warm, it

is a problem that will worsen. Longer periods of warm weather mean more ground level ozone, particularly in urban heat island areas. Under the Good Neighbor provision, EPA must do what it can to eliminate interstate contributions to that ozone, not only under this 2008 standard, but looking forward under the tighter 2015 ozone standard as well. While it is good to see EPA recognizing that emissions reductions proposed here also will have climate benefits, it is equally true that they have immediate public health benefits, and that the Agency has not quantified them, although there are well established metrics for doing so. EPA here proposes to find that in nine of the 21 states still at issue, no additional significant contribution to downwind nonattainment, or issues with maintaining the 2008 standard will remain in 2021 or after. For the other 12 states, the agency proposes to require existing power plants to run controls already installed, and in some cases, to further control their NO_x emissions so as to alleviate, but not eliminate, downwind ozone problems, whether those problems are failure to attain or to maintain the 2008 standard. That's an admirable goal, and we hope that the Agency will achieve full attainment in the near future, but more needs to be done. As I noted above in my remarks, we've had a new ozone standard in place since 2015, and that standard also must be implemented. In order to ensure the reduction of ozone precursor emissions and ozone transport under that standard, the Agency needs to look beyond just the power sector to additional controls on NO_x

emissions from industrial sources and the transportation sector. EPA already should have been conducting and collecting doing work to collect the information the Agency needs for this work. The Agency has authority to collect it and the argument about the lack of information on available emissions reductions from non-EGU [non-electric generating unit] sources is hard to understand at this point. While it is good that the Agency is requesting public comment on the issue, really, the ball must be in the Agency's court to do more to reduce ozone and ozone precursor emissions and to support regulations that create incentives for cleaner industrial activity. While the current proposal recognizes as well that the electric sector is part of an interconnected grid so that generation-shifting from dirtier to cleaner energy sources can reduce emissions, EPA also has to recognize that generation-shifting can play a larger role and should be considered and encouraged as an emissions reduction strategy similar to any technology installed at a source. More needs to be done as well to ensure that each source reduces its emissions so as to reduce both its local effects and the downwind interstate effects of such pollution. We know a lot now, EPA does, about the demographics of the areas closest to the existing power plants that are the subject of this rule and the degree to which controlling them benefits local public health as well as downwind attainment of the ozone standards. Persons living around those plants are more likely than average to be of lower income, or people of color, and that

environmental justice component of EPA's proposals deserves analysis. We urge the Agency to consider seriously the potential negative impact of a trading program on environmental justice communities. Creating a system that requires power plants to restart their existing-but-idled controls or to run existing controls to their design levels is important, but it's only a first step to prevent downwind nonattainment and to set the stage for healthier communities in and around these plants. Looking forward to the implementation of the tighter 2015 ozone standard. Thank you very much for taking the time to listen to these remarks. We will be submitting more details in written public comments on the proposal by the December 14th, 2020 deadline.

MS. KIMBERLY LIU: Thank you, Ann. Up next, we have Tracy Babbidge from the Connecticut Department of Energy and Environmental Protection. Please hit *6 and state your name and spell it before starting your testimony.

TRACY BABBIDGE, Connecticut Department of Energy and Environmental Protection

MS. BABBIDGE: Good afternoon, my name is Tracy Babbidge. It's T-r-a-c-y B-a-b-b-i-d-g-e, and I'm the Bureau Chief at the Connecticut Department of Energy and Environmental Protection. Thank you for the opportunity to comment on the Revised Cross-State Air Pollution Rule Update. The CSAPR rule does

appear to take some tentative steps forward to address air pollution transport. However, for Connecticut, the proposed rule falls short of fulfilling EPA's obligation to fully and timely address ozone transport, a mandate which has been underscored by the court in *Wisconsin vs EPA*. The emission reduction benefits of the proposed rule do not provide Connecticut with a full remedy until 2024 at the earliest, a year beyond the 2023 date that the court recently rejected in *New York vs EPA*. For several decades, Connecticut has failed to meet the national ambient air quality standards for ozone. This revised rule fails to provide Connecticut with sufficient upwind reductions to meet the 2008 standard. From a practical perspective, failing to meet these primary and secondary standards has now subjected generations of our residents to adverse economic and health impacts. This past year, despite lower emissions due to the COVID-19 pandemic, Connecticut still experienced 17 days of unhealthy levels of ozone. Nine of those days were exceedances of the 2008 standard. Our failure to attain is due in large part to interstate transport from upwind states. Connecticut is entitled to a full remedy, which is long overdue at this point. While this proposed rule may result in some emission reductions in the short term, EPA needs to do more, and more quickly, to provide meaningful relief to Connecticut. The Wisconsin ruling specifically references the overwhelming impact of ozone transport from upwind states, frustrating Connecticut's ability to reach attainment by the deadlines

prescribed under the Clean Air Act. Despite the Wisconsin ruling's mandate, the revised rule will reduce ozone impact in Connecticut by a scant point two parts per billion, which is entirely inadequate to either meet the letter or the spirit of the Wisconsin ruling. Four of Connecticut's coastal monitors have design values in the 79 to 82 parts per billion range. For Connecticut, significant short-term reductions in ozone transport across our borders are needed to attain the 2008 standard to prevent further negative public health impacts and to curb the resultant disproportional economic impacts stemming from these public health costs. Regionally, we are the last state left struggling with attaining the standards due to emissions that were not adequately addressed or adequately controlled. The question we are left with is how much longer will Connecticut residents have to wait before we get this right and the negative impacts from upwind emissions are truly remedied? We are searching for the answer to that question. We will be following up with specific comments on the proposed rule. But at a high level, we have several comments on EPA's technical approach, including EPA's approach to modeling and the use of the model [Comprehensive Air Quality Model with Extensions], which has historically under-predicted ozone values in Connecticut; the cost of control and EPA's proposal to set cost effectiveness at \$1,600 per ton, which is extremely low and about one-tenth of Connecticut's economic feasibility threshold for reasonably achievable control technologies, or RACT. Third, we're

not convinced that the trading program as constructed will drive emission reductions. Groupings under the trading program should be limited to sources that significantly contribute to the same downward problem areas. For example, the inclusion of Louisiana as part of the Group 3 program provides too much flexibility for trading and potentially foregoes the opportunity for real emission reductions. Also, we believe that eliminating the non-EGU [non-electric generating unit] emissions from the scope of this rule dismisses the opportunity to achieve reductions from non-EGUs that are necessary. In closing, we would urge EPA through this rule to actually require existing controls for nitrogen oxides to be optimized and run on a daily basis. This is critically important in Connecticut, especially on those hot summer peak demand days when ozone concentrations are at the highest. Getting this rule right is critical for Connecticut's efforts to reach attainment. I appreciate your time and want to thank you for the opportunity to provide comments this afternoon.

MS. KIMBERLY LIU: Thank you, Tracy. Our next speaker is Ben Grumbles from the Maryland Department of Environment. You can hit *6 to unmute yourself and proceed whenever you're ready.

[BEN GRUMBLES, Maryland Department of Environment](#)

MR. GRUMBLES: Thanks everybody, my name is Ben Grumbles and I'm the Secretary of the Maryland Department of the Environment [MDE]. I want to

thank EPA for the opportunity to testify on its proposed Revised Cross-State Air Pollution Rule Update. I also want to say thanks to all the men and women of EPA for the work they do in carrying out the Clean Air Act programs for the nation. My perspective will be particularly focused on Maryland's approach and our appreciation for your work and also our testimony that the proposal has some flaws that need to be corrected. Over the past 50 years, the Clean Air Act has benefited millions of Americans by reducing air pollution and improving public health while our nation's economy prospered. This success story is largely due to the strong state-federal partnership embodied in the landmark environmental law, by which states cooperatively work with the EPA to adopt common sense, cost-effective programs to reduce air pollution. Now, while great progress has occurred, interstate air pollution transport is still a problem and it's a problem for states like Maryland. Research shows that transported ozone from upwind states is often already above the 70 parts per billion air quality standard as it enters the state of Maryland. Now, Maryland through Governor Larry Hogan's administration and the Maryland Department of the Environment, we support the EPA's proposed new emissions budget as a step in the right direction. However, Maryland remains concerned the rule does not fully address ozone transport issues for the 2008 ozone National Ambient Air Quality Standards. MDE has previously asked EPA to address in a timely way pollution transport through Maryland's Clean Air Act

Section 126 petition and Section 184(c) petition to the Ozone Transport Commission. MDE is similarly concerned that the proposed rule does not fully address the Clean Air Act Good Neighbor obligations by 2021 because it, first of all, uses a seasonal cap-and-trade program to address a daily problem. Secondly, it places an excessive reliance on modeling, despite conflicting monitoring data, actual monitoring data. Support of the new budget, well, Maryland agrees with EPA's proposal to implement new budgets, which will require further optimization of pollution controls. Compared to recent ozone season emission levels, MDE estimates that the proposed rule will ensure near-term NO_x reduction. These reductions will provide important immediate benefits to downwind states unduly impacted by pollution transport. Maryland supports EPA's efforts to have this rule finalized, and effective, by the 2021 ozone season. We've analyzed the emission budgets for the coal-fired selective catalytic reduction units included in the proposed rule, and we find that the emissions rates are reasonable and achievable. Maryland also agrees with EPA's proposal to issue the emissions budgets on a sliding scale in order to preserve the costs of emissions allowances. The common issue with cap-and-trade programs is that, as low cost allowances flood the market, it becomes cheaper to purchase allowances than to actually operate the pollution controls. MDE supports EPA's efforts to address this issue by adjusting the emissions budgets each ozone season in response to fleet changes. MDE also

suggests EPA explore opportunities to make additional adjustments if future fleet changes warrant it. Now, with respect to the seasonal cap-and-trade program, cap-and-trade programs such as the one proposed here are inadequate mechanisms to ensure permanent emissions reductions on high ozone days. Ozone is a daily problem and the methodology for determining attainment is based on the 8-hour daily maximum ozone concentration on specific high ozone days. Seasonal cap-and-trade programs do not require emissions reductions on key days, as the very nature of the program allows emissions to fluctuate on a daily basis so long as a seasonal cap is met. This problem is demonstrated in Maryland's written comments highlighting how sources from a single upwind state admitted in excess of 30 tons per day of NO_x on three consecutive high ozone days in 2019 while still complying with the CSAPR [Cross-State Air Pollution Rule] Update cap-and-trade program. So, what should EPA do? It should revise the proposed rule to close the loophole by also including a backstop requirement which establishes certain criteria to identify potential high ozone days in downwind states and requires that coal fired EGUs [electric generating units] with selective catalytic reduction controls meet the rate EPA defines as optimized on those days. It's a common sense solution, and it would allow for seasonal flexibility while ensuring pollution controls are operated at an optimized rate on the days that are evaluated when measuring ozone attainment. The other point about excessive reliance on modeling

is simply this: in the rulemaking, EPA inappropriately, in our view, ignores current air monitoring data, which contradicts the modeling predictions. In previous rulemakings, EPA has appropriately used modeling to make long-term predictions regarding future attainment years. But with only seven months to go before the 2021 attainment date, MDE has identified multiple instances where the model predicts the state will attain the 2008 ozone NAAQS [National Ambient Air Quality Standard] despite actual real world monitoring data indicating otherwise. In closing, we urge EPA to finalize the proposed emissions budget in the proposed Revised Update and implement the rule prior to the 2021 ozone season starting. These emissions reductions are important to downwind states like ours and are necessary for achieving and maintaining attainment in 2021. But we also restate, EPA must consider the highozone-day issue as an important aspect of the problem and implement a common sense solution that would require sources to meet EPA's optimized rate on high ozone days. Finally, EPA should address the deficits in the modeling and demonstrate that its attainment and maintenance projections are actually achievable by 2021. I want to thank Tad Aburn and Megan Ohlrick for their work at MDE and also say, we will provide additional information and analysis in our written comments. Thank you so much for the opportunity to testify, and thanks for your patience.

MS. KIMBERLY LIU: Thank you Ben. Up next is Georgia Murray from the Appalachian Mountain Club. Whenever you're ready, you can hit *6 to unmute yourself and proceed.

GEORGIA MURRAY, Appalachian Mountain Club

MS. MURRAY: Thank you. Good afternoon. Thank you for the opportunity to speak today. My name is Georgia Murray, G-e-o-r-g-i-a, M-u-r-r-a-y, and I am a staff scientist for the Appalachian Mountain Club. The Appalachian Mountain Club [AMC] is the oldest conservation and recreation organization in the country with over 100,000 members and supporters who value healthy outdoor recreation. Tropospheric ozone is a harmful pollutant, negatively affecting human health, ecosystems and our climate. Our organization supports healthy outdoor spaces for all and protection of natural resources. We are concerned that people working or exercising outdoors can see negative impacts to their health from ozone pollution. AMC was part of a hiker health study with Harvard School of Public Health and Brigham and Women's Hospital that demonstrated healthy individuals hiking on Mount Washington in New Hampshire had lung function declines even with low levels of ozone. For those with respiratory disease, the impacts were even more severe. We continue to track ozone concentrations at this rural, northern New Hampshire location, which historically has had significant long range transport of

ozone. We have documented, first hand, that transported ozone pollution can impact distant mountains and rural environments as well as densely populated areas. Clean outdoor air, whether at a local park or rural mountains, should be a priority during COVID when people are seeking outdoor spaces more often and poor respiratory health and pollution exposure have been linked to worse outcomes of the disease. This year across New England, counties in Connecticut, Rhode Island, and Massachusetts, saw exceedances of the 2008 ozone standard and yet compliance with this 2008 standard is long overdue. The AMC has advocated for decades to reduce ozone precursor emissions and address interstate transport of ozone across our region, starting with the 1998 NAAQS [National Ambient Air Quality Standard] SIP [State Implementation Plan] call. The new CSAPR [Cross-State Air Pollution Rule] Update proposal does make some progress in tightening the NO_x Nitrogen Oxide budgets of 12 contributing states; however, EPA should and can do more. We are particularly concerned that, by EPA's own estimates, some states will remain in nonattainment of the 2008 ozone standard in 2023. This leaves states even further behind in meeting the tighter 2015 ozone standard that's up and coming. We urge EPA to do more. EPA should first ensure that reductions will allow all downwind states to attain the 2008 standard as expeditiously as possible. EPA should expand the sources considered in the Update beyond EGUs [Electric Generating Units], considering the large contributions of other energy

production activities and nonpoint pollution sources. EPA should also consider whether the effectiveness of the current trading program is still viable for addressing the remaining ozone exceedance areas under the 2008 standard and instead should prioritize addressing air pollution issues in overburdened communities that may be left behind with regional trading. In conclusion, AMC urges EPA to consider strengthening the current Cross-State Air Pollution Rule Update, requiring greater reductions in nitrogen oxide pollution to achieve compliance with the 2008 ozone standard in downwind states. Thank you for your time.

MS. KIMBERLY LIU: Thank you Georgia. Up next we have Vontasha Simms from Ji'Aire's Workgroup. You can hit *6 to unmute yourself and you have 5 minutes.

VONTASHA SIMMS, Ji'Aire's Workgroup

MS. SIMMS: Yes, hello. My name is Vontasha Sims. I live here in Charles County, Maryland. I'm a born and bred resident here in the state of Maryland. I'm calling from Charles County. I'm also an elected official with the Charles County Democratic Central Committee and I'm a very big environmental justice activist here throughout the state of Maryland. I want to first of all give everyone a thank you for being allowed the opportunity to speak here. Also, I want to – since Mr.

Grumbles has already spoken from the MDE here in Maryland – I just want to kind of express some concerns that I have here in the southern part of Maryland. I live in Charles County, but unfortunately in Brandywine, which is in Prince George's County in Maryland, we are concerned about our air pollution here, our ambient air pollution here in this part of the state of Maryland. Not only are we concerned about cross air pollution into other states, but we are also concerned we have counties polluting other counties. We have big polluters on our borders here in Charles County and we cannot even believe that Prince George's County would even think about building another fossil fuel plant here in Southern Maryland. We are not able to get proper test results here in Southern Maryland. We want to have the EPA come down here to do some public health and safety testing here. We need to have our groundwater tested here. Our downwind air is not being tested for contaminants, pollutants that are coming out of that Brandywine area, which has about five power plants, five fossil fuel plants within a 13-mile radius of one another. They actually want to build yet another fossil fuel plant in that area. We are fighting against that, that pipeline. They want to build a pipeline that would run under the Zekiah Swamp, under the Mattawoman Creek, which are very, very important waterways to us here, not only in the Southern Maryland area, but also throughout this region, and really throughout this country. Lot of people come from around this country, they come from around this world to go fishing out in

our waters here in Southern Maryland. We have a very, very, very big concern when it comes to the neglect that we have received in getting the correct proper information from the EPA, from the MDE, from the PSC and all these other government agencies that have neglected to inform our community as to what exactly is going on here in our community. We have a very big asthma rate here in this area. We have a very big cancer rate here in this area. We have contaminated groundwater. Testing has been done and performed and verified here in this area and once again these big polluters are always built, on indigenous lands, in African American communities, and those who are not really able to be able to fight the system. Once again, this only shows the heart-wrenching grief that we continue to go through in our communities, not finding a way out. You know we can't drink our water. We can't breathe our air. You know we can't eat our food. Our children cannot go out and play safely. It's just a lot of things that seem to be dumped into our communities, time and time and time again. We want to talk about cross air pollution, but are these places, are they monitoring these other states, these other counties that you're building big polluters on their border? Are you, are you being good neighbors? I cannot say that we in Southern Maryland or in Charles County feel as if we are being treated with the good neighbor obligation here. We've been left out of the picture in so many different times, so many different instances. They continue to want to build fossil fuel plants here in this area and to continue to

contribute to the public health, the detriment of our public health here in this area.

We want to immediately stop that fossil fuel plant in Brandywine. We want to immediately transition any of those plants into renewable energies. We want to immediately have the EPA come and do some proper testing of our ground, our animals, our food and we need to have that data readily available for the public.

We want more regulations. We need human impact testing here. Just so many things we need here that have not been done. We have lacked the resources here in this part of Maryland and we continue to be ignored. So I'm just here to speak on behalf of the residents here in Charles County; on behalf of my indigenous ancestors; on behalf of the African American community here; on behalf of those just living in those areas of continued contamination, continued pollution. I don't have all the data. I don't have all the numbers, but I think that those facts should be made available to those professionals that we have here, that are able to assess that information, so we're able to move forward properly here in Charles County, in Southern Maryland, and we're able to take care of our residents here, and we're able to give them a very valuable quality of life here in Southern Maryland. So once again, I just want to thank you for having me here. I just want to thank you guys for paying attention to this issue. I just ask that you continue to be diligent, that you be honest in your efforts, and you really reach out to the community and

bring some resolve to these communities. Thank you for your time. Have a great day.

MS. KIMBERLY LIU: Thank you Vontasha. Our final scheduled speaker is Kelly Crawford from the DC Department of Energy and Environment. Please hit *6 and proceed whenever you're ready.

[KELLY CRAWFORD, DC Department of Energy and Environment](#)

MS. CRAWFORD: Good afternoon, I'm Kelly Crawford. I'm the Associate Director for the Air Quality Division at DC Department of Energy and Environment [DOEE]. DOEE is the leading authority on energy and environmental issues affecting the District of Columbia in relation to air. DOEE is the lead agency ensuring health- and welfare-based air quality standards are attained and maintained. DOEE comprises more than 350 dedicated engineers, biologists, inspectors, environmental specialists and support staff who are working to protect and restore our environment, conserve natural resources, and mitigate pollution and climate change for the over 700,000 residents who call the District home. I'm speaking today on the Revised Cross-State Air Pollution Rule Update. While we are supportive of EPA's attempt to address a full remedy for the transport obligation under the 2008 Ozone NAAQS [National Ambient Air Quality Standard], and that this could reduce the pollution impacting our partners in the

New York City and Houston Metropolitan areas, we defer to those regions as to whether the proposal achieves those goals. We recognize, however, that the District continues to monitor nonattainment for the 2015 ozone NAAQS and decisions in this proposal will affect future rulemakings to address this nonattainment. Several corrections must be made to ensure problematic precedents are not set as EPA develops transport solutions for the 2015 ozone NAAQS. We have some concerns in the way in which emissions allowance trading is implemented in the proposal. Transport obligations are linked to a particular downwind receptor. While it is challenging to determine if emissions from Indiana are impacting New York City to the same extent as those from Kentucky, the modeling clearly shows that Louisiana solely impacts the Houston Metropolitan area and none of the other states in the proposal impact Houston. While we're not critiquing the trading of emissions allowances per se, it is not justifiable that trading of emissions allowances should be able to occur between these two separate geographies: the states that solely impact the New York City nonattainment area; and Louisiana, which impacts the Houston nonattainment area. In the final rulemaking, EPA should limit trading to states that impact the same downwind nonattainment area. More importantly, transport obligations need to account for monitored data within the relevant attainment deadlines, not just rely on modeled projections. [INAUDIBLE] for the 2008 NAAQS were due in 2011

and states were required to achieve emissions reductions by relevant attainment deadlines, which were in 2015 for marginal nonattainment areas. It is now 2020 and EPA is still relying on future year projection of design values, in this case 2021, which is years after upwind states were required to meet their obligations. Preliminary data from the 2020 ozone season indicates that at least 17 monitors in five different nonattainment areas outside of California have current design values above 75 parts per billion. Note that four of the monitors are in attainment areas. Additionally, there are another 22 monitors in three different nonattainment areas which meet EPA's definition of having interference with maintenance because they had fourth highest values in 2020 above 75 parts per billion, but had design values at or below 75 parts per billion. Note that seven of the monitors were in attainment areas. All of these 39 monitors are clearly downwind nonattainment or maintenance receptors. Given that transport obligations needed to have been met in 2015, and yet only four of them were considered in EPA's revised CSAPR [Cross-State Air Pollution Rule] Update analysis, the first step in the four-step process needs to rely on the monitor data that is clearly demonstrating that monitors are not attaining or maintaining the 2008 ozone NAAQS. Thankfully, the District does not have one of these monitors, but we do continue to experience ozone levels keeping us in nonattainment for the 2015 ozone NAAQS. EPA's own modeling shows that only 10% of our ozone pollution comes from within our borders, making us wholly

dependent on complete solutions to the problem of transport. EPA must implement transport solutions that don't rely on future projections, but focus on the deadline set in the Clean Air Act for reducing pollution from upwind states. Given that the marginal nonattainment deadline for the 2015 ozone NAAQS is 2021, this is the year that downwind states need upwind states to have controls in place to meet attainment deadlines for the 2015 ozone NAAQS, and the district is not meeting this NAAQS largely due to transport from upwind states. These elevated ozone levels have a disproportionate impact on communities of color which experience disparate health outcomes, including lower life expectancy and higher rates of asthma. Our most vulnerable residents are breathing in air pollution at levels that are being monitored on the ground by our state-of-the-art air quality monitors, not what is being projected from some future, using CAMx [Comprehensive Air Quality Model with Extensions]. We want to see this disconnect corrected now so that when the FIP [Federal Implementation Plan] is developed for the 2015 ozone NAAQS, we're not left hoping for the computer model to produce an answer that reflects the reality that our residents breathe. This step should be developed as soon as possible, as a FIP to address ozone transport for the 2015 ozone NAAQS is well overdue. Additionally, as EPA develops its ozone transport solution for the 2015 ozone NAAQS, we would recommend that EPA consider additional control measures outside of the regional cap-and-trade framework developed under the

CSAPR program. While we do recognize that the original CSAPR and CSAPR update were instrumental in reducing NOx emissions throughout the region, as we address solutions for the lower, more stringent 70 parts per billion ozone standard, EPA should look at solutions that address emissions from specific sources on peak days and ensure that emissions control are run optimally every day of the ozone season. EPA has already identified optimization at existing already-installed selective catalytic controls as cost-effective measure for reducing ozone.

However, in this revised CSAPR update, EPA has set no limits on emissions rate to ensure that the SCRs [Selective Catalytic Reduction] are optimized at specific power plants. The OTC [Ozone Transport Commission] has already submitted a Clean Air Act Section 184 C petition requesting EPA to require these controls to be optimized in Pennsylvania and EPA has yet to take action on this petition. We urge EPA to require similar control optimization requirements in states upwind of the District, as these reductions are needed to bring the District into compliance with the 2015 ozone standard. The District of Columbia calls on the EPA to rework this proposed action to analyze all monitors that are currently experiencing monitored ozone levels that are not meeting the first step of EPA's four-step analysis, rather than rely on projections, and to make sure that trading can only occur between states that have obligations to the same downwind receptors. We also implore EPA to consider a more thorough and timely analytical approach in

developing transport solutions for the 2015 ozone NAAQS. I'd like to thank Hanna Ahshinasi and Joseph Jakuta for their work on this, from my staff. Thank you.

MS. KIMBERLY LIU: Thank you Kelly. Seeing that that was our last scheduled testimony, I will now turn it back to Dan.

MR. HOOPER: Thanks Kim and thank you everyone. That marks the last of our scheduled testimony. And as Kim mentioned, we appreciate all your input, and also the attention of everyone participating in our virtual hearing today. Before we close, I want be sure that everyone on the call who wanted to speak had the opportunity. If anyone else is interested in testifying, please let us know now. You can hit *6 and state your name, and then we can hear your testimony in turn. We would like to get the names of all additional participants who want to testify first, and then will proceed with your testimony in turn. I'll pause here and if you would like to testify please press *6, state your name and then we'll wait for a list of people who would like to do so, and then begin if anyone has chimed in.

[Brief pause.]

OK. Hearing nothing, it seems as if we were successful in hearing from everyone today. want to thank you, to thank all of the speakers and the participants in today's meeting. I very much appreciate all of the verbal testimonies. I want to remind everyone that the public comment period remains

open until December 14th. We look forward to receiving your comments. At this point in time, I am going to adjourn this public hearing. Thank you very much.

[Whereupon, at 1:52 p.m., the virtual public hearing concluded.]