

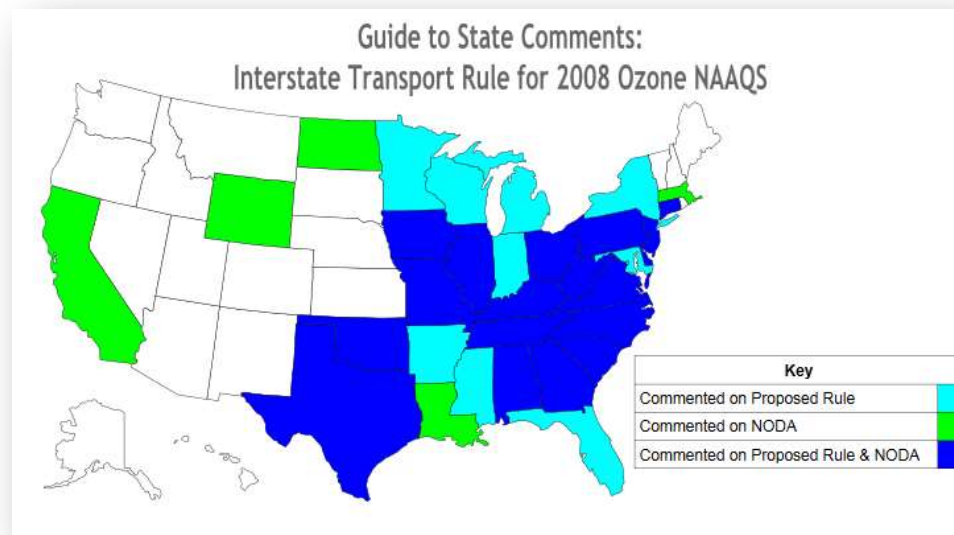
## Agenda and Compiled State Agency Comments – Interstate Transport Rule for 2008 Ozone NAAQS

- **Overview of State Environmental Agency comments**

Overall, 27 state environmental agencies provided comments on EPA's proposed CSAPR update (including several that also commented on the NODA) and five additional state agencies commented just on the NODA. This includes states included in the proposed CSAPR Update, as well as several states not assigned new budgets.

Links to all state and local agency comments on proposed rule and NODA are available at:

[http://www.csg.org/aapca\\_site/news/CSAPRUpdateComments.aspx](http://www.csg.org/aapca_site/news/CSAPRUpdateComments.aspx)



- **EPA needs to address controls on in-state sources first<sup>1</sup>**

“Section 107(a) of the CAA requires states to first consider the effects of local emissions in a nonattainment area and nearby areas in state(s) closest to the nonattainment area in question before seeking emissions reductions in upwind states. In addition, EPA recognized the requirement to look locally in both its 1997 NO<sub>x</sub> SIP Call and in the Clean Air Interstate Rule (CAIR). Specifically, the DAQ emphasizes that the CAIR decision by the Court determined that ozone transport issues must first be controlled by local sources and then by upwind sources.”

- [North Carolina Division of Air Quality](#), pg. 3 - 4

“The proposal requires disproportionate emissions reductions from upwind states, while areas containing nonattainment or maintenance receptors have virtually no requirements for actual emission reductions or control strategies.”

- [Texas Commission on Environmental Quality](#), pg. 2

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<sup>1</sup> Similar comments raised by [Tennessee](#) (pg. 4).

- **Relationship between FIP and EPA action on relevant and timely SIPs**

“It is premature for the EPA to prepare a FIP before even proposing action on relevant and timely submitted SIPs for the 2008 eight-hour ozone transport requirements. Despite the EPA’s claims of not pre-judging those submitted SIPs, the proposal of a FIP that includes states, like Texas, that have outstanding SIPs awaiting EPA action is in fact an action that is not yet warranted.”

- [Texas Commission on Environmental Quality](#), pg. 1

“Furthermore, the CAA provides that EPA shall promulgate a Federal Implementation Plan (FIP) at any time within two (2) years after the administrator finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria ... or disapproves a State Implementation Plan (SIP) in whole or in part (42 U.S.C. 7401(c)(1)(A)-(B)). The language of the CAA contemplates EPA filing a FIP that would do that which the State has failed to complete, which is to promulgate a plan to eliminate significant transported contribution from that State. The statute does not describe a process for EPA to issue a partial solution to that which a state has failed to complete. The EPA offers little justification for its failure to develop a complete rather than partial FIP, other than that EPA did not have adequate time.”

- [Arkansas Department of Environmental Quality](#), pg. 2 - 3

- **2017 NOx Budgets require unreasonably stringent reduction, and are based on a flawed methodology and timeline<sup>2</sup>**

“This proposed rule will require a major reduction in ozone season NOx emissions for Arkansas beginning in the 2017 ozone season. As proposed, the rule would reduce Arkansas’s NOx trading budget from 15,110 tons to 6,949 tons, which is an extremely significant 54% reduction. Likewise, Arkansas’ new unit set-aside decreased from 1,209 tons to 141 tons, which is an 88% reduction.”

- [Arkansas Department of Environmental Quality](#), pg. 1

“The DAQ’s most significant concern with the proposed CSAPR Update Rule is that the EPA’s proposed \$1,300/ton control case would require the power sector in North Carolina to reduce its 2017 NOx emissions by 41 percent (relative to the existing 2015 Phase I CSAPR budgets).”

- [North Carolina Division of Air Quality](#), pg. 2

“The Division contends that such a NOx emission reduction by the 2017 ozone season is too stringent and premature, places an undue hardship on Kentucky EGUs, may adversely affect electric power grid reliability, and is not based on the appropriate \$ per ton EGU NOx cost threshold for Kentucky. The \$1300 per ton EGU NOx cost threshold proposed by EPA is based on the widespread availability of restarting idled SCRs to full operation and the installation of newer state of art combustion controls. This is not an appropriate option for Kentucky as its coal-fired EGUs with SCRs have not been idle.”

- [Kentucky Division for Air Quality](#), pg. 2

“The implementation date for the beginning of the 2017 ozone season provides a very short implementation period for sources that need to obtain PSD permits prior to obtaining and installing controls. In some cases, a source will require idling to install controls. Then after the source is brought back on-line, another source will have to be idled to install controls. This sequential idling of affected sources is time consuming and will be

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<sup>2</sup> Similar comments raised by environmental agencies of [Indiana](#) (pg. 1), [Mississippi](#) (pg. 2), [Ohio](#) (pg. 1), [Tennessee](#) (pg. 1), [Iowa](#), and [Michigan](#).

difficult, if not impossible, to achieve before the proposed implementation date... Arkansas urges the EPA to provide a longer period in which to begin meeting the proposed emissions allocations.”

- [Arkansas Department of Environmental Quality](#), pg. 2

- **IPM v5.15/v5.14 model runs include a number of unit-level errors, including inaccurate retirement projections<sup>3</sup>**

“EPA’s 2017 Ozone Season Budget for Kentucky is inaccurate. The Division found that EPA had identified seven Kentucky EGUs as not operating in 2017, while the Division has no information that those particular units will not operate in 2017. Additionally, the Division found that EPA had identified one Kentucky unit as operating in 2017, while the Division knows that the unit is retired and has not operated since 2010. The Division urges EPA to withdraw this proposed rule and correct all technical issues identified in comments submitted to EPA for both the August 4, 2015, NODA and for this December 3, 2015, proposed rule, and provide another opportunity for public review and comment before proceeding with a final rulemaking.”

- [Kentucky Division for Air Quality](#), pg. 2

“The EPA’s use of IPM to forecast Base and Control Case emissions over a short period of time is unrealistic. The EPA uses actual 2014 heat rate data to calculate NOx emissions budgets for states. The DAQ believes that it would be much more realistic for the EPA to use actual 2014 or 2015 NOx emissions in its Base Case rather than relying on IPM which clearly forecasts significant changes in the composition of North Carolina’s power sector fleet that will not happen by 2017.... In fact, the majority of the coal retirements (i.e., 3,772 MW) is associated with the assumptions in the IPM v5.14 and v5.15 Base Cases prior to application of selective catalytic reduction (SCR) optimization for the \$1 ,300/ton Control Case (658 MW). Duke Energy’s integrated resource plans (IRP) and current information provided by the North Carolina Utilities Commission indicate that none of the retirements predicted by IPM are expected to occur by January 1, 2017.”

- [North Carolina Division of Air Quality](#), pg. 7

- **EPA is inappropriately applying modeling approach to western states not covered by CSAPR or the proposed update**

“The WDEQ/AQD will provide detailed comments on the emissions data, emissions projections and modeling methodologies employed to calculate the projected 2017 ozone concentrations and upwind contributions at individual monitoring sites when the EPA proposes SIP requirements for the western states. WDEQ/AQD encourages the EPA to provide an additional NODA using the most accurate and current data available at the time the western states requirements are developed.”

- [Wyoming Department of Environmental Quality](#), pg. 1

“However, recent use of CSAPR in determining western states’ downwind contribution and the use of CSAPR thresholds concerns Wyoming that EPA intends to inappropriately use the same modeling in making determinations for western states. The notices regarding CSAPR had all indicated that the associated modeling would be evaluated for appropriateness prior to use in making determinations for western state plans. EPA then, without notice or consulting western states, began making determinations using CSAPR modeling and thresholds for western state plans. The Division previously expressed its concern and disappointment with EPA, and by association its Region 8 office, in the comment letter that Wyoming submitted on June 9, 2016 for EPA’s proposed disapproval action on Utah’s State Plan.”

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<sup>3</sup> Similar comments raised by environmental agencies of [Georgia](#) (pg. 4 -5), [Indiana](#) (pg. 1), [Louisiana](#) (pg. 2-3), [Mississippi](#) (pg. 1 - 2), [North Dakota](#) (pg. 1), [Ohio](#) (pg. 2), [South Carolina](#) (pg. 1), [Tennessee](#) (pg. 2 - 3), [Virginia](#) (pg. 5), [Illinois](#), [Iowa](#), [Michigan](#), [Missouri](#), [New York](#), [Wisconsin](#), and [Connecticut](#).

- [Wyoming Department of Environmental Quality](#), July 29, 2016 comment on Proposed Consent Decree, Clean Air Act Citizen Suit; Docket ID No. EPA-HQ-OGC-2016-0364, pg. 4

- **Monitoring vs. Modeling for Nonattainment/Maintenance Receptors and Lack of Independent Analysis for Determining Maintenance Receptors<sup>4</sup>**

“The TCEQ supports the use of ambient air quality monitoring data as the only valid basis for making nonattainment designations and identifying nonattainment and maintenance receptors. The TCEQ does not support the use of modeling as the basis for designations or identifying receptors. Such actions have serious consequences to industry, the economy of an area, its citizens, and the state.”

- [Texas Commission on Environmental Quality](#), pg. 2

“The EPA inappropriately proposes to disallow the use of monitoring data to formulate decisions about which areas contain ‘maintenance receptors’, which is a term of art, and the EPA instead proposes to rely exclusively on modeling data. This approach to identifying maintenance receptors is fundamentally different from that used to identify nonattainment areas. In comparison, the EPA properly proposes to identify nonattainment areas by taking into account monitoring data. The EPA fails to offer an adequate explanation of why monitoring data should not be considered in the identification of maintenance receptors. We urge the EPA to consider monitoring data when identifying both maintenance areas and nonattainment areas.”

- [Arkansas Department of Environmental Quality](#), pg. 4

“In fact, there is no “independent effect” since nonattainment and maintenance receptors are treated exactly the same way as far as linkages to states are defined and emission budgets are set. While the EPA goes to great lengths to distinguish the two classes of receptors (monitors), this distinction amounts to nothing more than a name game, and the implications for an upwind state are the same. A state is linked to a monitor if and only if the highest of the projected future year design values is greater than 75 ppb, and all linkages are treated identically except for being listed in separate tables for “nonattainment” and “maintenance” monitors. Simply labeling monitors differently but making no other distinctions hardly amounts to “independent effect.” The EPA itself acknowledges this fact (80 FR 75730), stating that “... two receptors ... are expected to have average design values below the NAAQS with the adjusted base case. However, these receptors are still expected to have maximum design values exceeding the NAAQS with the adjusted base case. Because both of these receptors are also considered maintenance receptors for the purposes of this proposal, their status as identified air quality concerns and *the status of states linked to these receptors is unchanged* by the adjusted base case.” [Emphasis added]

- [Texas Commission on Environmental Quality](#), pg. 2

“The EPA defines maintenance-only sites as those that have a projected 2017 average design value <76.0 ppb, but a projected 2017 maximum design value ≤76.0 ppb. Given all of the uncertainties associated with modeling the Essex ozone maintenance site and since the 2017 projected design value of the Essex monitor is 76.2 ppb (just 0.2 ppb above the threshold), the DAQ believes that the EPA should apply a more robust acceptance test that accounts for modeling uncertainties for determining a future design value for monitors with poor model performance. Alternatively, the EPA's bright-line test of 1 percent of the NAAQS should not be applied so rigidly for a poor performing monitor to determine significant contributions. The EPA's methodology overstates the 2017 future-year design value for the Essex maintenance site particularly since the Essex monitor has demonstrated attainment with the standard based on 2012-2014 EPA-certified monitoring data and preliminary monitoring data for 2013-2015.

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<sup>4</sup> Similar comments raised by environmental agencies of [Virginia](#) (pg. 1) and [Wisconsin](#).

Given the uncertainties associated with the EPA's air quality modeling methodology for the Essex, Maryland monitor and its reliance on maximum concentrations for calculating future year design values, we believe that North Carolina's contribution of 1.2 percent (i.e., 0.2 percent above the threshold) should not be used solely to link North Carolina with the Essex ozone maintenance problem.”

- [North Carolina Division of Air Quality](#), pg. 12

- **Inclusion of the Clean Power Plan in baseline for transport modeling is inappropriate<sup>5</sup>**

“The DAQ requests that the EPA exclude the CPP from the baseline for the CSAPR Update Rule for the following reasons. First, there are a number of legal challenges to the rule.... In addition, the DAQ has identified significant issues associated with IPM v5.15 results. We discuss these issues in detail in our comments on the power sector modeling which can be found in Attachment 1 to this letter. Specifically, inclusion of the CPP rate-based approach in the IPM v5.15 base case results in substantial retirements of the coal steam units in North Carolina. As discussed in our comments on the EGU sector, 3,772 MW of coal are retired under the base case that includes the CPP. This level of coal retirement in less than one year is not expected and is not technically feasible. The DAQ believes that it is extremely important that the EPA wait until states have submitted their state CPP plans so that the EPA can incorporate the state plan information into IPM to accurately model the impacts associated with the CPP. urthermore, it is extremely important that the EPA not only get the IPM work correct for the CSAPR Update Rule but also for future ozone transport modeling analysis for the new 2015 ozone NAAQS. Too many uncertainties exist with respect to implementation of the CPP that if included in the baseline for transport modeling analysis now will exacerbate uncertainties in future transport modeling.”

- [North Carolina Division of Air Quality](#), pg. 9 – 10

“However, under this proposed CSAPR update, EPA has made significant EGU emission changes with the introduction of IPM v5.15 (*which includes consideration of EPA’s Clean Power Plan*). This change led to more stringent EGU ozone season emission budgets in this proposed rulemaking. There is no clear explanation in this proposed rule as to how or why EGU emissions decreased so drastically from IPM v5.14 to IPM v5.15. The Division urges EPA to withdraw this proposed rulemaking.”

- [Kentucky Division for Air Quality](#), pg. 1

- **Concluding Agency Comments**

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<sup>5</sup> Similar comments raised by environmental agencies of [Alabama](#) (pg. 3), [Indiana](#) (pg. 2), [Mississippi](#) (pg. 2), [Ohio](#) (pg. 12), [Tennessee](#) (pg. 2-3), [Illinois](#), [Iowa](#), [Michigan](#), [Missouri](#), [New Jersey](#), and [Wisconsin](#).