

Remarks of Ann Weeks, for Clean Air Task Force

Virtual Public Hearing on *Proposed Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS*, Fed. Reg. 68,964 (Oct. 30, 2020), November 12, 2020.

Good afternoon, my name is Ann Weeks, and I'm the Legal Director with 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 advocacy.

First, we are pleased that EPA has responded so quickly to the New York district court's directive to act – although the proposal includes actions that could have been taken back when the CSAPR update was finalized four years ago, and it is of course disappointing to have had to litigate in 2020 to get this proposal for ozone smog reductions under a national standard that has been implemented in other ways for a decade.

As my colleagues Neil Gormley and Liz Mueller have just discussed, ground level ozone 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 can and must set requirements that eliminate significant contributions to ground level ozone – not only under this 2008 standard, but under the tighter 2015 standard as well, going forward.

And, while it is good to see EPA recognizing that the emissions reductions proposed here also will have climate benefits – it is equally true that they will have immediate public health benefits, that the Agency here has not quantified, 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 ozone standard will remain in 2021 or after. For the other 12 states, the Agency proposes to require existing power plants to run the controls they have already installed, and in some cases, to further control their NO_x emissions, so as to alleviate downwind ozone problems – whether downwind failure to attain or to maintain the 2008 8-hour ozone standard. That's an admirable goal that we hope the Agency will achieve in the near future – but more needs to be done than has proposed here, to achieve it.

And as I previously noted, we have had a new ozone standard in place now since 2015, and that standard also must be implemented. In order to ensure the reduction or elimination of ozone precursor emissions and ozone transport under that standard, the Agency needs to look beyond just the power sector, to additional controls on NOx emissions from industrial sources and the transportation sector. EPA should have already begun collecting the information the Agency needs for this work – the Agency has authority to collect it, and the argument about the lack of information about controls and available emissions reductions from non-EGU sources is over 5 years old at this point. While it is good that the Agency is requesting public comment on this issue, really the ball is 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 that the electric sector is part of an interconnected grid, so that generation shifting from dirtier to cleaner energy sources can reduce emissions, EPA should 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.

However, more needs to be done to ensure that each source limits its emissions, so as to reduce both its local effects and the downwind interstate effects of such pollution. We know a lot now about the demographics of the areas closest to existing power plants and the degree to which controlling power plant emissions benefits local public health as well as downwind attainment of the ozone standards. EPA knows that persons living around these plants are more likely than average to be of lower income and/or persons of color, and that environmental justice component of EPA's proposal deserves analysis and response. We also urge the Agency to seriously consider 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 designed levels, is important, but only a first step to prevent downwind nonattainment and set the stage for healthier communities in and around these plants, and the implementation of the 2015 ozone standard.

Thank you for listening to and considering these remarks. Clean Air Task Force will be submitting more detailed written public comments on this proposal by the December 14, 2020 deadline.