

**EPN Comments on Proposed Rule
Air Quality State Implementation Plans; Approvals and Promulgations:
Interstate Transport Plan Review for the 2015 Ozone NAAQS**
Docket EPA-HQ-OAR-2025-0192
March 2, 2026

The [Environmental Protection Network](https://www.epa.gov/environmental-protection-network) (EPN) harnesses the expertise of more than 750 former Environmental Protection Agency (EPA) career staff and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

In this action, EPA is proposing to approve State Implementation Plan (SIP) submissions from eight states—Alabama, Arizona, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, and Tennessee—regarding interstate transport for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). In addition, EPA states that it anticipates withdrawing previously proposed EPA actions related to interstate transport obligations for Iowa and Kansas and withdrawing previously proposed SIP disapproval actions for Tennessee, New Mexico, and Arizona.¹

EPN is not addressing state-specific SIP analyses in our comments but focusing on four larger concerns. First, EPA has not provided information on the harms to human health in downwind states as a consequence of this proposed action. Second, EPA has not provided an overall plan or approach that will resolve ongoing downwind nonattainment and maintenance problems in multiple states. Third, the Agency’s dated modeling analysis has proven to severely underestimate the degree and extent of ozone nonattainment and is, thus, not a reliable basis for assessing the interstate transport obligations for the states in question or any other upwind states. Fourth, EPA has failed to provide adequate technical justification for its selected threshold in assessing the individual contribution of the states in question to downwind nonattainment and maintenance.

In addition, we would like to point out an apparent inconsistency in EPA’s claims about the impact of its actions here. In Footnote 17 of the proposal, EPA states that it is not at this time withdrawing the existing (albeit stayed) Federal Implementation Plans for the states in question and that leaving these regulatory provisions in place “has no legal or practical effect.” In Section VI. Statutory and Executive Order Reviews (see EO 14192 paragraph), EPA states that finalizing this proposal would reduce regulatory burden for these states. EPA should clarify whether the intent of its actions are to have no effect or reduced burden - it cannot be both.

1. Americans in downwind states continue to be harmed by ozone pollution originating from sources in upwind states

In 2023, EPA’s Good Neighbor Plan (GNP), which this proposal would reverse in part, would protect millions of Americans in downwind states from pollution that blows across state lines. EPA estimated that the rule would reduce nitrogen (NOx) pollution from power plants and industrial sources in 23 upwind

¹ <https://www.regulations.gov/document/EPA-HQ-OAR-2025-0192-0001>

states (see Appendix A of these comments for the list of those states) and thus reduce smog pollution in downwind states affected by transport from those upwind states. EPA projected that, if implemented as planned, the rule would have provided multiple human health benefits by 2026, including: reductions in premature deaths from exposure to smog, reduced asthma attacks, and fewer hospital emergency room visits due to air pollution (see the March 2023 RIA for the final rule).

These benefits would be felt by Americans living across the country, from the West, Midwest, and Eastern states. Contrary to what the current proposed EPA action would have one believe, the non-attainment and maintenance problems in the downwind states have not been resolved.

Data from a recent EPA proposed supplemental rule² lists multiple states with monitors exceeding the 2015 8-hour ozone standard based on 2022 design values:

Arizona (multiple counties)
Colorado (multiple counties)
Connecticut (multiple counties)
Illinois (multiple counties)
Indiana (Porter County)
Michigan (multiple counties)
Nevada (Clark County)
New Mexico (multiple counties)
New York (Suffolk County)
Ohio (Lake County)
Texas (multiple counties)
Utah ((multiple counties)
Wisconsin (multiple counties)

In addition, the most recent 2022-2024 Design Values (DV) in areas previously designated nonattainment for the 2015 8-hour Ozone NAAQS show that many areas remain above the level of the 2015 8-hour ozone standard. As discussed later in these comments, ozone-related air pollution problems persist in the eastern half of the United States in places where the GNP and past transport rules specifically were intended to improve air quality, including in Midwestern states (e.g., Kentucky, Michigan, Missouri, Ohio, Wisconsin) and the east coast (e.g., Maryland, New York-New Jersey, Pennsylvania, District of Columbia).

This EPA action will not reduce the power plant emissions responsible for these continued air quality problems. In fact, power plant pollutant emissions are increasing for the first time in decades. Starting in 1998, emissions of the three main pollutants responsible for air quality impacts – sulfur dioxide (SO₂), annual oxides of NO_x, and ozone season NO_x – decreased steadily. By 2023, SO₂ had decreased by 96%, annual NO_x by 90%, and ozone season NO_x by 89% from 1995 levels. That trend continued in 2024, with SO₂ and annual NO_x levels continuing downward and ozone season NO_x levels holding steady. However, the most recent 2025 data show an abrupt reversal of that downward trend, with power plant emissions

² Table C-1, 2023 Ozone design values, p. 40, TSD for the Proposed Supplemental Rule for the Federal Good Neighbor Plan for 2015 Ozone NAAQS, Docket ID No. EPA-HQ-OAR-2023-0402, Ozone Transport Policy Analysis, Proposed Supplemental Rule TSD, January 16, 2024.

increasing for the first time in decades. From 2024-2025, SO₂ emissions increased 16%, annual NO_x emissions increased by 5%, and ozone season NO_x emissions increased by 2%.

This increase in emissions is not surprising, given changes in the fuel mix of power plants. In the 2024-2025 period, coal-fired generation increased and natural gas generation decreased, leading to the increased SO₂ and NO_x emissions. With recent actions by the administration focused on supporting coal generation, specifically the Executive Order issued on February 11, 2026 (“Strengthening United States National Defense with America’s Beautiful Clean Coal Power Generation Fleet”), hundreds of millions of dollars focused on propping up failing coal plants, and orders to keep economically-unsustainable coal-fired power plants on the grid, this increase in pollution likely will continue unabated, only exacerbating the air quality problems the GNP was designed to address.

2. EPA has failed to identify its overall plan for addressing interstate transport for the 2015 ozone NAAQS.

Given that the most recent EPA analyses and rulemaking showed as many as 23 states being significant contributors to downwind ozone nonattainment or maintenance for the 2015 ozone NAAQS, it is difficult to comment on an action such as this that deals with only 10 of these upwind states. By proposing to excuse these states of having to reduce summertime NO_x emissions, it appears to leave the other upwind and downwind states would have to achieve even greater NO_x emission reductions in order to provide for attainment.

The notice only states that the Agency “intends to take a subsequent action ... to address the interstate transport obligations for the 2015 8-hour ozone NAAQS for other States.” By not identifying these “other States” or even indicating that it has an overall plan for addressing transport, it is unclear where all of this is headed. If this proposed action is any indication, it would not be surprising if EPA were to enlist other “flexibilities” discussed in the Agency’s March 2018 memorandum³ to provide more off-ramps to excuse more upwind states from having to reduce summertime NO_x emissions. The result would be, of course, continued poor air quality for Americans living in downwind states.

EPA’s prior transport rulemakings - going back almost 30 years - have always provided a complete picture of the Agency’s plan for addressing interstate transport obligations for all contributing upwind states. EPA has always recognized the importance of assessing total contributions and dealing with states collectively, never individually. The piecemeal approach taken by this proposed action shows a lack of forethought and a deviation to some new, yet-to-be-identified approach for addressing interstate transport.

3. EPA’s assessments for Step 1 of the 4-step interstate transport framework are flawed. In particular, EPA has severely underestimated the scope of nonattainment for the 2015 ozone NAAQS in its analytic year (2023). Its modeling-based projections have proven to be overly optimistic and grossly inaccurate based on current air quality monitoring data.

³ “Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I).”

EPA has continued to rely primarily on dated air quality modeling conducted over eight years ago, as documented in its March 2018 memorandum.⁴ According to that memorandum, EPA expected that outside of California there would be only 11 nonattainment receptors and 14 maintenance receptors in its analytic year of 2023. In reality, the extent of actual measured nonattainment (outside of California) was much greater in 2023.

A review of ozone design values on EPA's website shows that for 2021-2023 there were over 130 monitoring sites (and for 2022-2024 there were over 140 monitoring sites) with design values above 0.70 ppb. Of note, two areas in the eastern U.S. particularly affected by interstate transport continued to show persistent, widespread nonattainment - e.g., about 30 violating sites in the Lake Michigan region (EPA projected only 2 nonattainment sites) and over 20 violating sites in the Northeast Corridor (EPA projected only 3 nonattainment sites). Also worth noting is that the magnitude of EPA's projected design values are much lower than the actual measured design values at many of its 11 identified nonattainment receptors - e.g., 71 versus 80 ppb at a receptor in Connecticut, 72 versus 78 ppb at a receptor in Wisconsin, and 72 versus 81 ppb at a receptor in Texas.

EPA's 4-step interstate transport framework relies heavily on having a complete and credible picture of downwind nonattainment and maintenance. Unfortunately, the Agency's dated modeling analysis has proven to severely underestimate the degree and extent of ozone nonattainment and is, thus, not a reliable basis for assessing the interstate transport obligations for the states in question or any other upwind states.

We recognize the need for prospective analyses when conducting air quality reviews under portions of the Clean Air Act, but when past such analyses have proven to be so erroneous, the Agency should determine what went wrong and make adjustments going forward. Continuing to blindly rely on past, inaccurate information undercuts the credibility of the current rulemaking.

4. EPA has not provided adequate technical justification for changing the contribution threshold from 1 percent to 1 ppb.

EPA has attempted to justify its change in the appropriate screening threshold for Step 2 in the 4-step transport framework based principally on an analysis documented in its August 2018 memorandum.⁵ Unfortunately, given the inaccuracy of the projections for the 2023 analytic year noted above, the underlying modeling data used in this analysis are not a reliable basis for assessing differences in contribution thresholds.

The analyses in the August 2018 memorandum concluded that "nationally the 1-ppb threshold captures a generally comparable amount of total upwind contributions overall (70 percent using 1 ppb versus 77 percent using 1 percent (0.70 ppb)) - when considering all receptors." EPA fails to recognize, however, that the difference in upwind contributions varies considerably by receptor - e.g., it is as much as 40 percent versus 18 percent at a receptor in Colorado, 87 percent versus 72 percent at a receptor in Wisconsin, 77 percent versus 65 percent at a receptor on New York, and 63 percent versus 36 percent at a receptor in

⁴ "Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)."

⁵ "Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards"

Texas). These individual receptor differences are critically important for these downwind states when having to determine which emissions reductions are most effective and necessary to provide for attainment at all monitoring sites.

Furthermore, and more to the point, the modeling data used in the Agency's analysis, as noted above, severely underestimated the degree and extent of ozone nonattainment. This may be due, in part, to underestimating the impacts from upwind states. And, by not identifying all monitoring sites having problems attaining and/or maintaining the 2015 ozone NAAQS, EPA has only provided a partial, wholly incomplete assessment of the amount of upwind contributions affecting downwind nonattainment and maintenance. Thus, by both underestimating the impact of upwind states and failing to examine all monitoring sites not meeting the NAAQS, no conclusions can be drawn about the relative difference between a 1 percent and a 1 ppb threshold.

Appendix A

The 23 upwind states that EPA determined are contributing to downwind non-attainment problems are listed below - the text is drawn from Table A-1 of EPA's March 2023 Ozone Transport Policy Analysis Final TSD:

Alabama+
Arkansas
California*
Illinois
Indiana
Kentucky
Louisiana
Maryland
Michigan
Minnesota+
Mississippi
Missouri
Nevada
New Jersey
New York
Ohio
Oklahoma
Pennsylvania
Texas
Utah^
Virginia
West Virginia
Wisconsin+

*California Electric Generating Units (EGUs) are not covered by this rule.

+Linkages for Alabama, Minnesota, and Wisconsin are projected to resolve before 2026. Therefore, those states have a lower level of emission control stringency compared to states that are projected to be linked in 2026.

^ In recognition of Utah's lack of state jurisdiction over an existing EGU in the Uintah and Ouray Reservation, the effects of the rule for that facility are presented independently from Utah in this document and fall under the descriptor "tribal" or "tribal data."