

In Support of Revising Interstate Ozone Transport Requirements

1 The National Ambient Air Quality Standards Program (NAAQS) is mandated under the Clean Air Act
2 (CAA), as amended in 1990, to set nationwide standards for criteria air pollutants to protect human health
3 and the environment. The Environmental Protection Agency (EPA) is responsible for identifying harmful
4 pollutants and establishing standards based on health and environmental concerns without regard for the
5 cost of mitigating the pollution. The NAAQS program regulates six criteria air pollutants: carbon
6 monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. Once EPA promulgates a
7 NAAQS, the agency must designate areas in the United States as being in “attainment” or
8 “nonattainment” of the NAAQS or “unclassifiable.” The CAA requires that the standards be reviewed
9 every five years. Within three years of the finalization of the standards, states are required to submit state
10 implementation plans (SIPs) that provide for the implementation, maintenance, and enforcement of any
11 such NAAQS. The EPA Administrator is required to promulgate a federal implementation plan (FIP)
12 under three conditions: (1) if a state fails to submit its SIP, (2) finds the SIP to be incomplete under the
13 statute, or (3) disapproves the SIP submission.

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15 In 2015, EPA revised the primary and secondary eight-hour ozone NAAQS to 70 parts per billion. States
16 were required to submit their ozone SIPs to fulfill their interstate ozone transport obligations under CAA
17 section 110(a)(2)(D)(i)(I) (also known as the Good Neighbor Provision) by October 1, 2018. On June 5,
18 2023, EPA promulgated the federal implementation plans for the 2015 Ozone National Ambient Air
19 Quality Standards (Ozone FIP) for 23 states for which the agency disapproved their 2015 ozone SIPs
20 because they failed to eliminate significant contributions to nonattainment of the 2015 ozone NAAQS in
21 other states or failed to submit a SIP. EPA has issued several major rules to interpret and clarify the
22 requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the regional transport of ozone. Previous
23 regional ozone transport efforts, including the NOx SIP Call, Clean Air Interstate Rule , Cross-State Air
24 Pollution Rule (CSAPR), CSAPR Update, and Revised CSAPR Update, required ozone-season nitrogen
25 oxide (NOx) reductions from electric generating units to address interstate ozone transport. EPA and
26 others have long regarded NOx as a significant ozone precursor in the context of interstate ozone
27 transport.

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29 The ozone interstate transport program has been subjected to changing rules and requirements since its
30 inception, creating regulatory uncertainty. EPA’s Ozone FIP is the most recent requirement to limit ozone
31 precursor emissions, such as NOx, by implementing a revised allowance-based trading program during
32 the ozone season (March 1- October 31). The Ozone FIP overestimated the reduction in criteria pollutant
33 emissions, relied on outdated or inadequate emissions modeling, and raised reliability concerns due to

34 allowance shortfalls and forced retirements. On June 27, 2024, the U.S. Supreme Court issued an opinion
35 granting emergency applications brought by four sets of parties for a stay of the Ozone FIP pending
36 completion of judicial review. In response to the U.S. Supreme Court’s stay order, EPA issued a final rule
37 to administratively stay the effectiveness of the Ozone FIP. In March 2025, EPA announced its intent to
38 rescind or revise the existing rule in two phases.

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40 **NOW, THEREFORE, LET IT BE RESOLVED:** That the American Public Power Association (APPA)
41 supports reviewing and revising the federal implementation plan for the 2015 ozone national ambient air
42 quality standard to ensure public power utilities can meet the established pollutant standards while
43 meeting rising electricity demand and ensure grid reliability; and

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45 **BE IT FURTHER RESOLVED:** That APPA supports increased compliance flexibility in any revised
46 nitrogen oxide emissions trading program; and

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48 **BE IT FURTHER RESOLVED:** That APPA does not support concepts, such as dynamic budgeting,
49 daily emission backstop emission rates, or annual emission bank recalibration, to maintain emission bank
50 control stringency; and

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52 **BE IT FURTHER RESOLVED:** That APPA supports future discretionary action to create an auction
53 mechanism to increase allocation market liquidity.