August 31, 2018

Submitted electronically via www.regulations.gov.

Acting Administrator Mr. Andrew Wheeler
U.S. Environmental Protection Agency
Mail Code: 6204M
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

AMERICAN PUBLIC POWER ASSOCIATION
Powering Strong Communities

www.PublicPower.org
#PublicPower

2451 Crystal Drive
Suite 1000
Arlington, VA 22202-4804

202-467-2900

RE: Comments of the American Public Power Association on the Environmental Protection Agency's Proposed Determination Regarding Good Neighbor Obligations for the 2008 Ozone National Ambient Air Quality Standard; 83 Fed. Reg. 31,915 (July 10, 2018); Docket ID No. EPA-HQ-OAR-2018-0225

Dear Acting Administrator Wheeler**:**

The American Public Power Association (APPA or Association) submits the following comments on the Environmental Protection Agency's (EPA or Agency) proposed rule entitled, "Determination Regarding Good Neighbor Obligations for the 2008 Ozone National Ambient Air Quality Standard" (Proposed Rule).[1] For the reasons described in the Proposed Rule, and as discussed in these comments, the Association supports EPA's proposal "to determine that, with [Cross-State Air Pollution Rule (CSAPR)] Update[2] implementation, 20 eastern states' good neighbor obligations for the 2008 ozone [national ambient air quality standards (NAAQS)] are fully addressed" under section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA) and that, "[a]s a result, . . . none of the [20] states analyzed will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states."[3] EPA should finalize its proposed determination.

The Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the more than 49 million people that public power utilities serve, and the 93,000 people they employ. The Association advocates and advises on electricity policy, technology, trends, training, and operations. Our members strengthen their communities by providing superior service, engaging citizens, and instilling pride in community-owned power.

[1] 83 Fed. Reg. 31,915 (July 10, 2018).
[2] Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 81 Fed. Reg. 74,504 (Oct. 26, 2016).
[3] The 20 states addressed in the Proposed Rule are Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, West Virginia, and Wisconsin. 83 Fed. Reg. at 31,917 Table I.A-1.

APPA members own and operate fossil fuel-fired electricity generating units (EGUs) in many of the 20 states addressed in the Proposed Rule.[4] Over the last two decades, these APPA members have been subject to, and have complied with, NOx emission reduction requirements imposed on EGUs, to address concerns regarding interstate transport with respect to attainment and maintenance of the ozone NAAQS in downwind states. Over this period, APPA members, and other owners and operators of EGUs in the eastern half of the United States, have achieved reductions in EGUs' ozone-season NOx and year-round NOx emissions.[5] As EPA recognizes in the Proposed Rule, "[a]mong stationary sources, EGUs in the eastern U.S. have been the primary subject of regulation to address interstate ozone pollution transport and have made significant financial investments to achieve emissions reductions."[6] For these reasons, APPA and its members have a direct interest in supporting the Proposed Rule.

I. Background

On October 16, 2016, EPA finalized the CSAPR Update. The goal of the CSAPR Update was to reduce interstate pollution transport that significantly contributes to nonattainment, or interferes with maintenance of the 2008 ozone NAAQS in the eastern U.S. EPA finalized a federal implementation plan (FIP) for each of the 22 states subject to the CSAPR Update. For each of the 22 states covered by CSAPR Update EPA promulgated EGU ozone season NOx emission budgets, implemented through a regional allowance trading program. Based upon the information available at the time the CSAPR Update was finalized, EPA was unable to determine if the CSAPR Update fully addressed most of the states' good neighbor obligations for the 2008 ozone NAAQS. Further, EPA could not conclude whether additional EGU and non-EGU reductions implemented on a longer timeframe than 2017 would be feasible and cost-effective to address states' good neighbor obligation for the 2008 ozone NAAQS.

On October 27, 2017, EPA issued a memorandum that provided supplemental information to states and EPA regional offices as they develop or review 2008 ozone NAAQS SIPs.[7] The memorandum included updated modeling that projected that no ozone monitoring site, outside of California, will have nonattainment or maintenance problems with respect to the 2008 ozone NAAQS in 2023. Based upon the results of the modeling analysis, EPA is proposing to determine that the implementation of the CSAPR Update fully satisfies the interstate transport obligations in section 110(a)(2)(D)(i)(1) of the CAA for the 2008 ozone NAAQS for 20 of the 22 CSAPR Update states. Therefore, EPA has "no remaining obligation [to] issue FIPs nor are

[4] See Appendix A for a list of facilities (steam and natural gas fired EGUs) in affected states that are owned in whole or in part by APPA members.

[5] See, e.g., https://www3.epa.gov/airmarkets/progress/reports/emissions_reductions.html. These emission reductions include recent additional ozone-season NOx emission reductions in response to EPA's latest ozone-season EGU NOx reduction regulation, the CSAPR Update. See, e.g., 83 Fed. Reg. 33,730, 33,741 (July 17, 2018) (noting that "[p]reliminary data for the 2017 ozone season, which is the first CSAPR Update compliance period, indicate that power plant ozone season NOx emissions across the 22-state CSAPR Update region were reduced by 77,420 tons (or 21 percent) from 2016 to 2017") (footnote with citation omitted).

[6] 83 Fed. Reg. 31,927.

[7] "*Supplemental Information on the Interstate Transport State Implementation Plan Submission for the 2008 Ozone National Ambient Air Quality Standers under Clean Air Act Section 110(a)(2)(D)(i)(1)", from Steve Page, October 27, 2017.*

states required to submit state implementation plans (SIPs) that would establish additional requirements for sources in these states to further reduce transport of ozone pollution with regards to the 2008 ozone NAAQs."[8] The two states among the 22 CSAPR Update states not covered by EPA's Proposed Rule are Kentucky and Tennessee. EPA addressed Kentucky's and Tennessee's good neighbor obligations separately.[9] As a result of EPA's determination, the Agency is also proposing minor revisions to the "existing state specific section of the CSAPR Update regulations".[10] The minor revisions will reflect EPA's determination and is applicable to the 20 states covered by the Proposed Rule.

II. EPA's Proposed Determination Is Well-Supported and Should Be Made Final

The results of EPA's analysis support the Proposed Rule and present the most recent modeling dates pertaining to downwind air quality in relation to the 2008 ozone NAAQS. EPA explains in the Proposed Rule that its October 2017 analysis is consistent with the analytical framework used in the CSAPR Update and in previous EPA assessments of interstate transport of ozone and ozone precursors. To summarize, the four-step framework includes:

(1) Identify downwind receptors that are expected to have problems attaining or maintaining the NAAQS;

(2) Examine which upwind state(s) are "linked" and contribute to the nonattainment or maintenance receptors identified in step 1;

(3) Quantify the upwind emissions that significantly contribute to nonattainment or interference with maintenance; and

(4) Reduce the identified upwind emissions via permanent and enforceable requirements [11]

Using the four-step interstate transport framework, EPA need only to procced to the first step of the framework to determine if the affected states will meet their good neighbor obligation. EPA's analysis does not identify any receptor in the eastern United States that is expected to have problems attaining or maintaining the 2008 ozone NAAQS in 2023, the future analytic year used in EPA's updated modeling.[12]

The Proposed Rule explains EPA selected 2023 as the future analytic year for assessing remaining interstate transport obligations for the 2008 ozone NAAQS based upon two primary factors; 1) the applicable attainment dates, and 2) the timing to feasibly implement new NOx controls.[13] The 2023 ozone season "is the first ozone season for which significant new controls

[8] *Id.* at 31,937.

[9] 83 Fed. Reg. 31,917.

[10] *Id.*

[11] *Id*. at 31,923-31,924.
[12] *Id.* at 31,936-37.
[13] *Id.* at 31,926.

to reduce NOx could be feasibly installed across the CSAPR Update region, and thus represents the timeframe that is as expeditious as practicable for upwind states to implement additional emissions reductions."[14]

The Association supports EPA's regional approach to the feasibility of implementing NOx control strategies rather than on a state-by-state or unit-by-unit basis.[15] We would agree that planning, engineering, permitting, fabricating, delivering, and installing new post combustion NOx control technologies, such as selective catalytic reduction (SCR) and selective noncatalytic reduction (SNCR), requires substantial time. EPA estimates the total time necessary to plan for and install an SCR at a single facility as up to 39 months and at least 48 months for multiple units in the same region if they must install NOx post-combustion controls in the same timeframe.[16] EPA's installation estimates for post combustion NOx controls may be too conservative. Comments submitted by the Utility Air Regulatory Group on the Proposed Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone, noted it takes on average a total of 39-40 months to complete SCR retrofits and it can take as long as 60 months to retrofit an SCR at difficult sites.[17] In addition, substantive lead times to install advanced NOx control equipment may be necessary due to availability of skilled labor and the inadequate supply of material and construction equipment, such as cranes, within the same state or region.

Based on these considerations, EPA's analysis "showed that four years would be an expeditious timeframe to coordinate planning and completion of any mitigation efforts…"[18] EPA is subject to a court-ordered deadline of December 6, 2018, to issue a final action fully addressing the good neighbor obligations under the 2008 ozone NAAQS for five of the 20 states addressed by the Proposed Rule.[19] EPA, therefore, concludes that implementation of any additional emission reduction requirements beyond those imposed by the CSAPR Update "is likely not feasible until the 2023 ozone season," which is the first ozone season after EPA's December 2018 final-rule promulgation deadline.[20]

The Proposed Rule properly evaluates the feasibility of implementing NOx control strategies related to the upcoming 2008 ozone NAAQS attainment dates and coordinating compliance deadlines with attainment timeframes. The Proposal Rule also reflects the need to consider future effects of local, state, and federal emissions reduction requirements to avoid over-control.

[14] *Id*. at 31,937.

[15] *Id*. at 31,928-29, 31,930-31, 31,931.

[16] *Id*. at 31,928.

[17] EPA-HQ-OAR-2009-0491-2756 (October 1, 2010) at 44.

[18] *Id*. at 31,929.

[19] *Id*. at 31,931 & n.82 (citing Order, *New York v. Pruitt*, No. 1:18-cv-00406-JGK (S.D.N.Y. June 12, 2018)).

[20] *Id*. at 31,931.

III. Conclusion

EPA's updated modeling is reasonable and properly supports the Agency's proposed determination that, with implementation of the CASPR Update, the CAA section 110(a)(2)(D)(i)(1) obligation for each of the 20 states addressed in the Proposal are fully resolved with respect to the 2008 ozone NAAQS. EPA should make final its proposed determination and amend the regulatory text to reflect the determination. Please contact Ms. Carolyn Slaughter (cslaughter@publicpower.org) with any questions regarding these comments.

Sincerely,

Carolyn Slaughter
Director, Environmental Policy
American Public Power Association

APPENDIX A

Owner Name	Plant Name	Plant State
Alabama Municipal Electric Authority	Amea Peaking (SYLACAUGA)	Alabama
South Eastern Electric Development Corp	Lee County (AL)	Alabama
Jonesboro Water & Light	Independence (AR)	Arkansas
Oklahoma Municipal Power Authority	John W Turk Jr Power Plant	Arkansas
Missouri Joint Municipal Electric Utility Commission	Plum Point Energy	Arkansas
Jonesboro Water & Light	White Bluff	Arkansas
Springfield Water Light & Power Dept	Dallman	Illinois
Springfield Water Light & Power Dept	Factory	Illinois
Springfield Water Light & Power Dept	Interstate	Illinois
Indiana Municipal Power Agency	Anderson	Indiana
Indiana Municipal Power Agency	Georgetown (IN)	Indiana
Indiana Municipal Power Agency	Gibson Station	Indiana
Indiana Municipal Power Agency	Richmond (IN)	Indiana
Richmond Power & Light	Whitewater Valley	Indiana
Ames Municipal Electric System	Ames Electric Services Power Plant (Ia Ames)	Iowa
Ames Municipal Electric System	Ames GT	Iowa
Missouri River Energy Services	Exira Station Power Project	Iowa
Muscatine Power & Water	Muscatine	Iowa
Lincoln Electric System	Walter Scott Jr Energy Center	Iowa
Municipal Energy Agency of Nebraska	Walter Scott Jr Energy Center	Iowa
Chanute Municipal Electric Utility	Chanute II	Kansas
McPherson Board of Public Utilities	McPherson	Kansas
McPherson Board of Public Utilities	McPherson 3	Kansas
Kansas City Board Public Utilities	Nearman Creek	Kansas
Kansas City Board Public Utilities	Quindaro	Kansas
Lafayette Public Power Authority	Brame Energy Center	Louisiana
Louisiana Energy & Power Authority	Brame Energy Center	Louisiana
Oklahoma Municipal Power Authority	Dolet Hills	Louisiana
Lafayette Utilities System	Hargis Hebert Generating Station	Louisiana
Lafayette Utilities System	T J Labbe Electric Generating	Louisiana
Holland Board of Public Works	491 E 48TH Street	Michigan
Michigan Public Power Agency	Belle River	Michigan
Lansing Board of Water & Light	Eckert Station	Michigan
Grand Haven Light & Power	J B Simms	Michigan
Michigan Public Power Agency	J H Campbell	Michigan
Michigan Public Power Agency	Kalkaska CT No 1	Michigan
Wyandotte Dept of Municipal Service	Wyandotte (MI)	Michigan
Chillicothe Municipal Utilities	Chillicothe	Missouri
Columbia Water & Light	Columbia Energy Center (Ameren)	Missouri

Higginsville Municipal Utilities	Higginsville	Missouri
Missouri Joint Municipal Electric Utility Commission	Iatan	Missouri
Springfield MO (City of)	James River Power St	Missouri
Springfield MO (City of)	John Twitty Energy Center	Missouri
Springfield MO (City of)	McCartney	Missouri
Sikeston Utilities	Sikeston	Missouri
West Plains MO (City of)	West Plains Peaker	Missouri
Vineland NJ (City of)	Clayville Switch GT	New Jersey
Vineland NJ (City of)	Howard M Down	New Jersey
Vineland NJ (City of)	West Station	New Jersey
New York Power Authority	Brentwood	New York
New York Power Authority	Harlem River Yard	New York
New York Power Authority	Hell Gate Peaker	New York
New York Power Authority	Joseph J. Seymour Power Project	New York
New York Power Authority	Kent Avenue	New York
Freeport Inc (Village of)	Plant No 2 (NY)	New York
New York Power Authority	Pouch	New York
Jamestown Board of Public Utilities	Samuel A Carlson	New York
New York Power Authority	Vernon BLVD	New York
American Municipal Power Inc	Bowling Green (AMP)	Ohio
American Municipal Power Inc	Galion Generating Station	Ohio
Hamilton Dept of Public Utilities	Hamilton	Ohio
American Municipal Power Inc	Hamilton Peaking	Ohio
American Municipal Power Inc	Napoleon Peaking GT (AMP)	Ohio
Oklahoma Municipal Power Authority	Charles D Lamb Energy Center	Oklahoma
Grand River Dam Authority	Grand River Energy Center	Oklahoma
Oklahoma Municipal Power Authority	Ponca City	Oklahoma
Texas A & M University (The)	Central Utility Plant	Texas
Austin Energy	Decker Creek	Texas
Austin Energy	Fayette Power Project	Texas
Lower Colorado River Authority	Fayette Power Project	Texas
Texas Municipal Power Agency	Gibbons Creek	Texas
CPS Energy	J K Spruce	Texas
CPS Energy	J T Deely	Texas
CPS Energy	Leon Creek	Texas
Brownsville Public Utility Board	Oklaunion	Texas
Oklahoma Municipal Power Authority	Oklaunion	Texas
Garland Power & Light	Ray Olinger	Texas
Bryan Texas Utilities	Roland C Dansby	Texas
Austin Energy	Sand Hill	Texas
Brownsville Public Utility Board	Silas Ray	Texas
CPS Energy	V H Braunig	Texas

Lower Colorado River Authority	Winchester Peaking Plant	Texas
WPPI Energy	Island Street Peaking Plant	Wisconsin
WPPI Energy	Oak Creek Power Plant	Wisconsin
Marshfield Electric & Water Dept	West Marinette (WI WPS)	Wisconsin