

April 21, 2022

Testimony of Hayden Hashimoto, Clean Air Task Force Attorney, at EPA Public Hearing on Proposed Good Neighbor Plan for 2015 Ozone NAAQS

Good morning, my name is Hayden Hashimoto, and I am an Associate Attorney with Clean Air Task Force. CATF is a global nonprofit working to protect public health and the environment from the impacts of harmful air pollution and climate change by catalyzing the development and deployment of pollution control technologies, and by encouraging cleaner and more efficient energy production through research, analysis, and public advocacy.

We urge EPA to move forward expeditiously with finalizing a Good Neighbor Plan for the 2015 ozone NAAQS. As the Agency is aware, the Court of Appeals for the D.C. Circuit has made clear that upwind states' significant contributions to downwind attainment and maintenance problems must be addressed by the relevant downwind attainment deadlines. In order to align limits on upwind sources with the 2024 moderate attainment date, measures must be in place by 2023, as that is the last full ozone season before that date, and the last year for which ozone season emissions data can be used to determine attainment for those areas. At the very latest, EPA should ensure that a final rule is published in the Federal Register at least sixty days prior to the start of the 2023 ozone season.

There are some aspects of the proposal that we think warrant further consideration and expansion, particularly its geographic and industrial scope, which we will discuss in written comments. At the same time, we strongly support many of the measures in the proposal that we believe represent significant improvements over past good neighbor rules. In particular, we strongly support the inclusion of backstop daily emissions rate limits and dynamic adjustments of emissions budgets for ozone precursors (specifically nitrogen oxides) from EGUs to maintain control stringency over time and improve emission performance at individual units. We also strongly support the inclusion of NO_x emissions limits for certain industrial sources.

We urge EPA at the very least to maintain the scope of this proposal in the final rule. As the agency recognizes, the proposal's scope and tighter NO_x limits are warranted to fully eliminate states' significant contributions to interstate ozone transport under the updated and more stringent 2015 NAAQS for ozone. And as EPA notes, while the limits for upwind EGUs may represent greater stringency than in EPA's most recent cross-state air pollution rules, prior ozone transport rules like the NO_x SIP Call had established EGU budgets premised on availability of retrofitting EGUs with post-combustion emissions controls, such as selective catalytic reduction. Many units already have these controls installed, and this rule would help to ensure that those units run their controls, and the remaining EGUs are not allowed to lag behind their peers and continue to emit NO_x without widely available controls.



This rule is an important tool for achieving EPA’s mission to protect human health and the environment. Ground-level ozone, the main component of smog, is a serious threat to public health and welfare, as it is associated with premature mortality and morbidity effects, including aggravating lung diseases and increasing the frequency of asthma attacks. Ozone exposure can also have significant negative effects on ecosystems. Ozone air pollution can travel over long distances, and therefore it is critical to reduce upwind emissions to aid downwind states in attaining the NAAQS. EPA estimates that the proposal would reduce ozone season NOx emissions from upwind states by 94,000 tons in 2026, prevent approximately 1,000 premature deaths, and decrease asthma symptoms for millions of Americans, resulting in monetized benefits that far outweigh the costs. Downwind states should not have to choose between suffering the harms of air pollution or implementing extremely costly policies when upwind states could easily and affordably control their emissions. And indeed, the Clean Air Act requires that these inequitable circumstances be addressed.

EPA should also prioritize measures that further environmental justice goals by reducing the burden of air pollution on people of color and low-income communities. The addition of backstop emissions limits for EGUs and emissions limits for non-EGUs is a strong step in the right direction, and if finalized can reduce the burden of pollution on both downwind communities and fenceline communities. Alleviating the burden of air pollution on fenceline communities, particularly those that deal with the cumulative impacts of past siting decisions, is long overdue, and an important way to further environmental justice.

We are encouraged by this proposal and hope it indicates a renewed commitment by EPA to protect public health and the environment. We urge the agency to finalize the Good Neighbor Plan, including the expanded scope and tighter limits that advance fenceline community air quality while satisfying Good Neighbor requirements, in time to allow these improvements to be achieved during the 2023 ozone season.