December 14, 2020

The Honorable Andrew Wheeler, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Submitted via Regulations.gov

RE: Comments - *Docket ID No. EPA-HQ-OAR-2020-0272: Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS*

Dear Administrator Wheeler:

As national health, medical, and nursing organizations, we appreciate the opportunity to provide comments on the U.S. Environmental Protection Agency's Proposed Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS. While the proposed revisions offer a more effective approach to addressing interstate air pollution, we believe that EPA can and must use existing authority to improve the rule even further and maximize benefits to public health.

If this rule is to successfully comply with the requirements under the Clean Air Act to fully protect public health, it needs to be strengthened. Ground-level ozone, or smog, is one of the most dangerous air pollutants. It chemically reacts with the lungs and even low levels of exposure can trigger immediate, dangerous health impacts including shortness of breath, wheezing, asthma attacks, and an increased need for medical treatment in those with lung diseases like asthma or chronic obstructive pulmonary disease (COPD). Everyone can be impacted by ozone pollution, but some groups are more at risk. Children, people 65 years and older, anyone who works or spends significant time outside, and individuals with existing lung disease are more susceptible to the health harms brought on by ozone pollution.[1]

Ground-level ozone is formed in part by nitrogen oxides (NOx) in the air. NOx is released by power plants, automobiles, and other sources of high-heat combustion. It then interacts with other emissions and with sunlight to create ozone. High heat can accelerate this process. This proposed update is based on the 2008 Ozone NAAQS. Since 2008, the world has experienced 8 of the 10

[1] https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/ozone

hottest years on record, with the last 5 being the top 5 hottest.[2] Those temperatures increase the likelihood of high levels of dangerous ozone.

The American Lung Association's 2020 *State of the Air* report found that more than 137 million people lived in counties that received a failing grade for ozone pollution, far more than results of the three most recent previous reports.[3] People of color are at an even greater risk as they are more likely than their white counterparts to live in areas with unhealthy levels of ozone.[4]

NOx is emitted from multiple sources. This proposal only addresses emissions from the power sector. While reducing emissions from the power sector is a necessary step, EPA will have to look beyond the power sector to effectively reduce emissions as mandated under the Good Neighbor provision of the Clean Air Act. Full compliance with the Good Neighbor provision should incorporate reductions in non-electric generating unit sources. We urge EPA to broaden the scope of emissions reductions requirements to fully address the multiple sources of precursors to ozone pollution.

We note that in this proposal, EPA has offered solutions to some of the failures of the 2016 Cross-State Air Pollution Rule Update. One such solution proposed is to set specific NOx emissions budgets for each year from 2021 to 2024. Enforcing specific budgets for electric generating units on a yearly basis will ensure that plants continue to implement pollution control technologies even as the sector transitions to cleaner energy technology.

This particular aspect of the rule is a step in the right direction, but we feel there is more that EPA can do with existing authority to better protect public health from harmful emissions. Requiring plants to run existing pollution control technologies is something that should have – and could have – happened four years ago. Communities that have been breathing in pollution produced outside of their state lines have waited long enough to see compliance with the (now outdated) ozone standard and they deserve more aggressive action. As we emphasized four years ago, existing NOx controls can reduce pollution more than what EPA assumes and emissions budgets should reflect that.

Additionally, EPA could exercise its authority under the Clean Air Act to reduce NOx emissions by other methods beyond relying on pollution control technology. The Agency could require that coal plants dispatch less or don't operate on high-ozone days. EPA could also place a greater emphasis on generation-shifting as an emissions reduction strategy. Transitioning away from the use of fossil fuels to generate electricity towards the use of cleaner, renewable, non-combustion sources will provide both immediate health benefits and reductions in climate-warming pollution.

We also feel that the proposal needs to go further in addressing the potential negative impacts of a group trading program. Any emissions trading program must ensure that communities that have historically borne the brunt of harmful air pollution – low-income communities and people of color – see reductions in emissions. Plants that pollute these frontline communities should not be permitted to release more pollution, or to reduce at a lower rate because company executives strategically purchased traded credits to be able to do so.

[2] https://www.noaa.gov/news/2019-was-2nd-hottest-year-on-record-for-earth-say-noaa-nasa

[3] https://www.stateoftheair.org/key-findings/ozone-pollution.html

[4] https://www.stateoftheair.org/key-findings/people-at-risk.html

Additionally, of the twelve states at issue under this rule, one of them, Louisiana, is found to only significantly contribute to one receptor, and is the sole significant contributor to that receptor's attainment challenges. Allowing interstate trading of allowances opens up the potential for more pollution to be emitted from the eleven other states that significantly contribute to the other three receptors' attainment challenges. Practically speaking, based off of the receptor modeling done by EPA, if Louisiana successfully reduces NOx emissions and its allowances are traded to other states, the benefits of those emissions reductions will only fall on the one receptor in Texas while the other three receptors in Connecticut will face additional challenges in reaching attainment due to the extra allowances traded.

This proposal attempts to address this concern by the use of the "assurance level," implementing a penalty if a state's sources emit over 121% of their emissions budget, but we feel that this level must be tightened or eliminated to better protect those communities that have waited far too long to see pollution levels decrease.

The urgency for EPA to take aggressive approaches to reduce precursors to ozone pollution is emphasized by the fact that this proposed rule is for compliance with ozone standards that are outdated and too weak. Public health experts – including the American Lung Association – have advocated for an ozone standard no higher than 60 parts per billion to match the research showing that the current levels are failing to adequately protect public health.[5] Given ozone's role in increasing the risk of respiratory infections, the urgency to act aggressively is underlined by the fact that the country continues to battle a pandemic brought on by a respiratory infection.

Despite the proposed rule being based on an outdated standard, we encourage EPA to strengthen the proposal so that it sets states on a path to not only meet the 2008 standard, but to expeditiously meet the 2015 ozone standard of 70 parts per billion. Protection of public health demands even further reductions.

Communities suffering from downwind pollution have been waiting for nearly five years since the finalization of the original Cross-State Air Pollution Rule Update to see accountability enforced on polluting states. While we appreciate that EPA has taken steps to address weaknesses in the original rule to make pollution reductions more enforceable, we urge the Agency to use its existing authority to further reduce precursors to ozone pollution. EPA has the responsibility to protect public health and has the opportunity to do so by strengthening this proposal.

Sincerely,

Allergy & Asthma Network

Alliance of Nurses for Healthy Environments

American Lung Association

American Public Health Association

[5] https://www.lung.org/getmedia/e26922d5-c845-44d3-b4c7-edc1729df0cb/final-comments-for-health-and-medical-orgs.pdf

American Thoracic Society

Asthma and Allergy Foundation of America

Center for Climate Change and Health

Children's Environmental Health Network

Health Care Without Harm

International Society for Environmental Epidemiology -- North American Chapter

Medical Society Consortium on Climate and Health

National Environmental Health Association

Physicians for Social Responsibility