

WESTAR Public Hearing Testimony
Proposed Ozone Nonattainment Area Classification and SIP Requirements Rule
January 12, 2016
Washington, D.C.

My name is Mary Uhl. I am the Executive Director of the Western States Air Resources Council or WESTAR, an association of 15 western state air quality management agencies. Thank you for holding a hearing and providing an opportunity for WESTAR and others to comment on the proposed rule.

The proposed rule is particularly significant to western state air quality agencies because of the significant contribution of background and transported ozone at many western ozone monitoring sites. Western states are concerned with the characterization of U.S. background (USB) ozone and the limited CAA regulatory relief mechanisms offered through exceptional event exclusions or area designations. WESTAR also offers comments on Reasonably Available Control Measures (RACM) from a western perspective today.

RACM comments

EPA proposes to interpret CAA section 172(c)(6) to require intrastate sources outside the nonattainment area to be subject to “other measures” of emission control as necessary or appropriate to provide for attainment of the standard. This interpretation is not consistent with the longstanding implementation of nonattainment plan general provisions under CAA §172(c), which unambiguously applies to the nonattainment area (NAA). If §172(c) should apply to all sources within a jurisdiction that impact the NAA, then this seems to contradict the purpose of establishing a nonattainment area boundary. Under the ozone designations process in EPA guidance, states are required to carefully evaluate all source emissions potentially impacting the area for determining the appropriate boundary recommendation for the NAA. Consequently, the procedure for determining which sources impact the NAA and are thus subject to RACM is already enshrined in the boundary recommendations process, which requires the advice and consent of EPA. There are additional technical challenges to determining sources outside the NAA to consider that would significantly increase the expense of the nonattainment area modeling demonstration. In the west, where states are geographically expansive, the distance between intrastate sources and the NAA can be large. Controlling distant intrastate sources may not significantly benefit a NAA. However, WESTAR does support the voluntary implementation of intrastate RACM in situations where a state determines a need for more emission reductions that could help to attain the standard, and for this situation only, WESTAR requests that EPA provide technical guidance describing tools and methods for evaluating and addressing contributions to nonattainment areas from intrastate emission sources and how to identify “other measures” for emission reductions from intrastate sources.

International Transport and Background Ozone comments

The proposed rule seeks comment on whether opportunities for CAA section 179(B) demonstrations should be subject to certain limitations identified in the preamble. WESTAR agrees with the EPA's statement that contributions to U.S. ozone concentrations from sources outside the U.S. can be from nearby sources in a bordering country or from sources many thousands of miles away. Therefore, WESTAR does not support any limitations for the opportunity to complete CAA section 179(B) demonstrations.

The EPA's modeling has identified six counties in four western states, none of which adjoin international borders, with contributions to the 2017 design value (DV) from manmade state sources of less than 12 percent and contributions from manmade U.S. sources less than 25 percent, including one county in Colorado with contributions from manmade U.S. sources of 10 percent. Manmade state sources only contribute 2 percent to a monitor in White Pine County, Nevada, while manmade U.S. sources contribute 15 percent at the monitor. Monitors in all of these counties have 2012-2014 ozone DV greater than 70 ppb.

These data demonstrate the magnitude of international contributions across broad reaches of the western U.S. and as Dr. Owen Cooper of the Cooperative Institute for Research in Environmental Sciences at the NOAA Earth System Research Lab noted during the EPA's ozone background workshop in February 2016, despite reductions in international emission and due to long-lived atmospheric processes, the trend of increasing global ozone entering the U.S. he has documented will persist for the foreseeable future, potentially increasing the number of NAAs in non-border states.

The EPA is also seeking comment on a proposed requirement that all demonstrations under CAA section 179(B), including marginal areas, must include a showing that the air agency has adopted all RACM, including RACT, for the area. Emission sources of NO_x in many rural western counties are dominated by combinations of mobile sources, biogenic sources and sometimes natural fire. Control of mobile sources is not generally under state jurisdiction, and biogenic and natural fire emissions are not controllable, either. Scarce air agency resources will be required to assess RACM/RACT requirements with considerable investments of staff time and other resources. In cases where emission sources are beyond state jurisdiction and international contributions are overwhelming, it is improbable that state efforts to impose control measures will be meaningful in mitigating public health impacts of exposure to ozone in these counties.

Finally, the EPA invites comment as to whether the EPA should develop technical guidance for the "but for" analysis in a CAA section 179(B) demonstration. Given the broad extent of significant international contributions, WESTAR strongly advocates for this technical guidance.

Thank you once again for this opportunity to comment and for listening to western state concerns and suggestions.

