




# **Cross-State Air Pollution Rule**

October 3, 2012

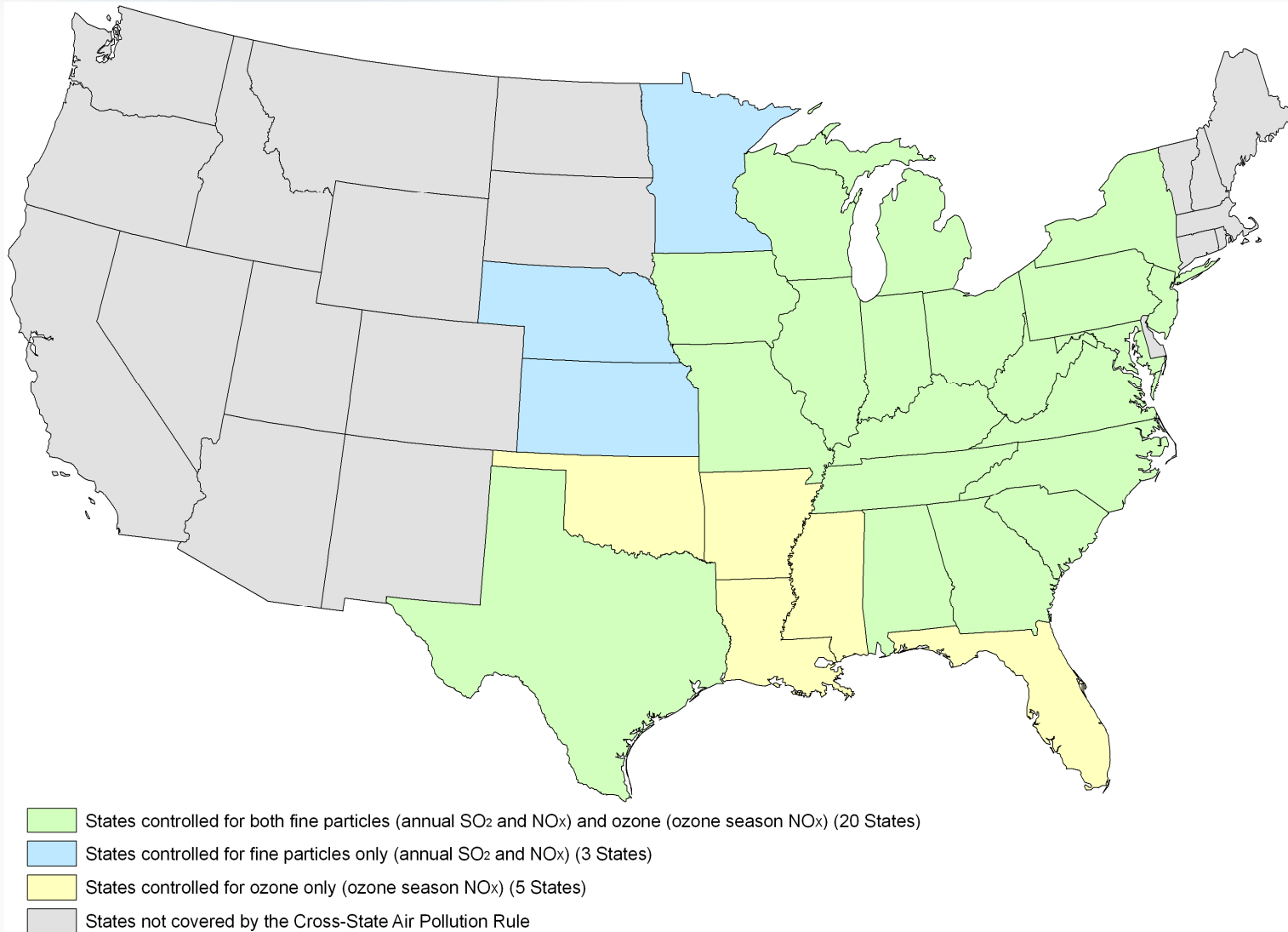


# Overview of CSAPR



- EPA finalized the Cross-State Air Pollution Rule (CSAPR) under the “good neighbor” provision of the Clean Air Act to reduce transported pollution that significantly affects downwind nonattainment and maintenance problems.
- CSAPR would have reduced emissions of SO<sub>2</sub> and NO<sub>x</sub> from power plants in the eastern half of the United States.
- The rule would have reduced fine particle and ozone air pollution.
- The benefits greatly outweighed the costs.
- Similar to previous allowance trading programs, the rule encouraged innovation and cost-savings and helped power plants achieve their mission of providing clean, affordable, and reliable energy.
- December 30, 2011: The United States Court of Appeals for the D.C. Circuit issued a ruling to stay the CSAPR pending judicial review.
- August 21, 2012: The U.S. Court of Appeals for the D.C. Circuit issued a ruling to vacate and remand the Cross-State Rule to the EPA. The court further ordered EPA to continue administering the Clean Air Interstate Rule (CAIR).

# Cross-State Air Pollution Rule States



# Budgets under CSAPR and CAIR



Comparison of combined emission budgets for states covered by both CSAPR and CAIR  
(million tons)

	Initial Phase	
	CAIR Budgets	CSAPR Budgets
Annual SO <sub>2</sub>	3.25	3.24
Annual NO <sub>x</sub>	1.33	1.16
Ozone Season NO <sub>x</sub>	0.56	0.49

Sources: CAIR preamble pages 25329, 25320, and 25323-25324 (<http://edocket.access.gpo.gov/2005/pdf/05-5723.pdf>); CSAPR preamble tables VI.F-1, VI.F-2, VI.F-3 (<http://www.gpo.gov/fdsys/pkg/FR-2011-08-08/pdf/2011-17600.pdf>); CSAPR SNPR tables I.C-1 and I.C-2 (<http://www.gpo.gov/fdsys/pkg/FR-2011-07-11/pdf/2011-17456.pdf>)

- CAIR began covering NO<sub>x</sub> emissions in 2009 and SO<sub>2</sub> emissions in 2010.
- CSAPR would have applied to emissions in 2012 and beyond.
- The initial phase for CSAPR compliance was to begin in 2012 for all programs.

# CSAPR Court Opinion



- CSAPR opinion addressed two key issues:
  - Significant contribution and interference with maintenance
    - "...the collective burden must be allocated among the upwind States in proportion to the size of their contributions to the downwind State's nonattainment."
    - "...once EPA reasonably designates some level of contribution as "insignificant" under the statute, it may not force any upwind State to reduce more than its own contribution to that downwind State minus the insignificant amount."
    - "EPA's authority to force reductions on upwind States ends at the point where the affected downwind State achieves attainment."
  - FIP Authority
    - "When EPA quantifies States' good neighbor obligations, it must give the States a reasonable opportunity to implement those obligations."
- Court ordered EPA to continue to implement CAIR "pending the promulgation of a valid replacement"
- Dissenting opinion focused on the same two areas and found basic problems in both areas:
  - Ignores limits on court's jurisdiction
  - Conflicts with plain text of the CAA
  - Conflicts with prior Court decisions

# Discussion Questions



1. The CSAPR court decision appears to require EPA to determine a state's "good neighbor" obligation before transport SIPs are due. What do you (states) think about this and how would you suggest EPA proceed? What do you need from EPA to develop your SIP submissions?
2. In light of the CSAPR court decision, how should we (EPA/states) deal with interstate transport as part of the attainment planning process? What approaches should be considered?
3. What approaches do you think should be considered for replacing CAIR to address interstate transport obligations and secure emission reductions needed to attain and maintain NAAQS?
4. What are you doing with respect to transport SIPs currently?
5. Have you considered a collaborative multi-state process to address interstate transport?