

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED REVISIONS
TO THE STATE IMPLEMENTATION PLAN
UNDER CLEAN AIR ACT § 110(a)(2)(D)
WITH RESPECT TO VISIBILITY**

No. EIB 13-03(R)

**ORDER AND STATEMENT OF REASONS
FOR ADOPTION OF SIP REVISIONS**

This matter comes before the New Mexico Environmental Improvement Board (“Board”) upon a petition filed by the New Mexico Environment Department (“NMED” or “Department”), proposing amendments to New Mexico’s State Implementation Plan (“SIP”), in order to address the interstate transport requirements with respect to visibility under Clean Air Act § 110(a)(2)(D). A public hearing was held in Farmington, New Mexico on September 5, 2013, with a quorum of the Board present during the hearing. The Board heard technical testimony from the Department and other parties and admitted exhibits into the record. On September 5, 2013, the Board deliberated and voted to adopt the proposed amendments for the reasons that follow:

I. STATEMENT OF REASONS

1. The federal Clean Air Act (“CAA”) at § 110(a)(2)(D)(i) requires states to submit State Implementation Plans (“SIPs”) which, among other things, prohibit emissions within the state that would interfere with measures to protect visibility that are required to be included in the SIP of any other state.
2. In a final rule promulgated on August, 22, 2011, the U.S. EPA determined that New Mexico had satisfied the visibility element of CAA § 110(a)(2)(D)(i) with respect to the

1997 ozone and particulate matter national ambient air quality standards for all sources in the state except for the San Juan Generating Station (SJGS). EPA determined that the CAA § 110(a)(2)(D)(i) requirements would be satisfied by NO_x emission rates of 0.27 lbs/MMBtu from SJGS Units 1 and 2 and 0.28 lbs/MMBtu from SJGS Units 3 and 4. EPA did not impose these limits, but instead promulgated a best available retrofit technology (BART) federal implementation plan (FIP) under the regional haze provisions of the CAA. 76 Fed. Reg. 52,388 (Aug. 22, 2011).

3. On May 21, 2013 NMED filed a petition with the Board for a public hearing in this matter. The petition contained a SIP revision that would satisfy CAA § 110(a)(2)(D) through implementation of the terms of a tentative agreement between NMED, EPA, and PNM known as the “Term Sheet” (attached hereto). The Term Sheet is intended to address pollution control requirements for the SJGS with respect to regional haze and interstate transport for visibility. Under its terms, SJGS will retire Units 2 and 3 by December 31, 2017, and install selective non-catalytic reduction technology (SNCR) on Units 1 and 4, with an emission limit of 0.23 lbs/MMBtu.
4. On June 15, 2013, at a meeting conducted in compliance with the Open Meetings Act and other applicable requirements, the Board granted the Department’s request for a hearing in this matter and scheduled the hearing for September 5, 2013. The Board appointed member John Volkerding as the Hearing Officer.
5. On June 28, 2013, public notice of the hearing was published in the New Mexico Register, in the Farmington Daily Times (in English and Spanish), and in the Albuquerque Journal (in English and Spanish). The notice stated that the Board may

make a decision on the proposed SIP revisions at the conclusion of the hearing, or may convene at a later date to consider action on the proposal.

6. NMED filed a Notice of Intent to Present Technical Testimony (NOI) on August 16, 2013, in accordance with the 20.1.1 NMAC.
7. The Public Service Company of New Mexico also filed an entry of appearance.
8. On September 5, 2013, the Board adopted the pollution-control scenario for SJGS (the “State Alternative”) as contained in the Term Sheet, as New Mexico’s BART determination for the SJGS.
9. The State Alternative will result in zero NOx emissions from SJGS Units 2 and 3, and NOx emissions of no greater than 0.23 lbs/MMBtu from SJGS Units 1 and 4. The State Alternative therefore achieves greater emission reductions than EPA determined to be necessary to satisfy CAA § 110(a)(2)(D)(i).
10. A hearing in this matter was held in Farmington, New Mexico on September 5, 2013, at which a reasonable opportunity for all persons to be heard was provided. Public comment at the hearing and in writing was unanimous in support of the proposed SIP revisions.
11. The Board has the authority to adopt the proposed SIP revisions pursuant to N.M.S.A. 1978, §§ 74-2-5.B & C.
12. In considering the proposed SIP revisions, the Board is required by the Air Quality Control Act, NMSA 1978, Section 74-2-5.E. to give weight it deems appropriate to all facts and circumstances, including but not limited to (1) character and degree of injury to or interference with health, welfare, visibility and property; (2) the public interest, including the social and economic value of the sources and subjects of air contaminants;

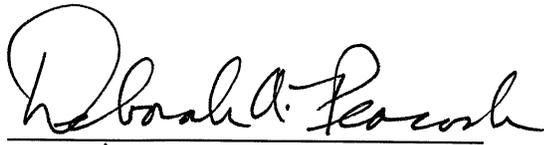
and (3) technical practicability and economic reasonableness of reducing or eliminating air contaminants from the sources involved and previous experience with equipment and methods available to control the air contaminants involved. The Board heard ample oral and written testimony and considered all these facts and circumstances regarding the NMED-proposed SIP in making its decision.

13. In accordance with NMSA 1978 Section 74-2-5(C)(1)(a), the proposed SIP revisions and regulations are no more stringent than, but at least as stringent as, required by the federal act and federal regulations pertaining to visibility protection in mandatory Class I areas.
14. The notice and hearing requirements of N.M.S.A 1978 Section 74-2-6 and 20.1.1 NMAC were satisfied in this rulemaking process.
15. The proposed amendments are adopted for any or all of the reasons stated above.

II. ORDER

By unanimous vote of a quorum of the Board members, the “New Mexico State Implementation Plan Revision to Satisfy the Requirements of Clean Air Act 110(A)(2)(D)(I)(ii) with Respect to Visibility for the 8-Hour Ozone and PM 2.5 NAAQS Promulgated In July 1997” was approved by the Board on September 5, 2013. The Department shall submit this SIP revision as expeditiously as possible to the EPA for approval. To the extent that any provision within the SIP revision is not self-executing, the Department shall take appropriate actions to implement that provision using its applicable powers and authorities, including but not limited to

enforcement authority under N.M.S.A. 1978, 74-2-12 and permitting authority under N.M.S.A. 1978, § 74-2-7, and implementing regulations.



Chair

Dated: September 5, 2013

On Behalf of the Board