



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

May 16, 2024

The Honorable Michael Regan  
Administrator  
U.S. Environmental Protection Agency  
EPA Docket Center  
Docket ID No. EPA-HQ-OAR-2004-0489  
Mail Code 28221T  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Submitted electronically via: <https://www.regulations.gov/>

RE: Supplemental Air Plan Actions: Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards and Supplemental Federal "Good Neighbor Plan" Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards, Docket ID No. EPA-HQ-OAR-2023-0402

Dear Administrator Regan,

These comments are a response to the U.S. Environmental Protection Agency (EPA) on Supplemental Air Plan Actions: Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards and Supplemental Federal "Good Neighbor Plan" Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards. EPA published the notice in the Federal Register on February 16, 2024, Docket ID No. EPA-HQ-OAR-2023-0402.

For the reasons identified in the attached comments, NMED requests that EPA re-consider its position and accept New Mexico's SIP as part of its final action.

Sincerely,

A handwritten signature in black ink that reads "Bruce C. Baizel".

Bruce Baizel  
Acting Cabinet Secretary

Attachments (2)

cc: James C. Kenney, Cabinet Secretary, NMED  
Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham  
Dr. Sydney Lienemann, Deputy Cabinet Secretary of Administration, NMED  
Michelle Miano, Director, Environmental Protection Division, NMED  
Zachary Ogaz, General Counsel, NMED

## Attachment 1

### New Mexico Environment Department

#### Comments to the U.S. Environmental Protection Agency Supplemental Air Plan Actions: Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards and Supplemental Federal “Good Neighbor Plan” Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards Docket ID No. EPA-HQ-OAR-2023-0402

#### **NMED Comment 1: EPA agrees with – yet improperly rejects – the alternative framework submitted by NMED.**

EPA states that “[w]hile the EPA does not disagree with the methodology NMED and City of Albuquerque Environmental Health Department (EHD) used in the submission to identify receptors where the State is linked, the EPA continues to find its 4-step interstate transport framework to be an appropriate and nationally consistent approach to evaluating interstate transport, including the application of a contribution threshold at Step 2 of the framework”<sup>1</sup> (emphasis added). It appears that through this statement, EPA agrees with the methodology submitted by NMED, however is rejecting its application solely for the purposes of “national consistency” instead of substance. NMED requests EPA to reconsider such determination given its prior agreement.

#### **NMED Comment 2: NMED requests EPA to consider the July 2023 letter as part of its State Implementation Plan (SIP) submission.**

NMED submitted its July 2023 letter, attachment 2, to supplement its SIP and ensure EPA had all facts underlying NMED’s updated emissions reductions before issuing a final decision. EPA asserts that it has discretion to consider the content of the letter<sup>2</sup>. Further, EPA “recognizes that states may replace a Federal Implementation Plan (FIP) with a SIP and the emissions controls in that SIP may differ from those the EPA selected in its FIP” and admits “...there is not a single, prescribed method for how a State may conduct a Step 3 analysis...”<sup>3</sup>. Thus, NMED requests that EPA utilize its discretion to recognize the July 2023 letter as sufficient and well within the current procedural process to satisfy notice concerns.

#### **NMED Comment 3: New Mexico is not projected to be linked to any actual receptors in 2025.**

Based on EPA’s most recent modeling results using the 2016v3 emissions platform, New Mexico is linked as contributing more than 1% to a single maintenance-only receptor in El Paso County, Texas for the 2023 analytic year. New Mexico is not projected to be linked to any receptors in 2025, which is the year that triggers the emissions trading program for Group 3. Therefore, there is no basis for New Mexico to enter into the emissions trading program.

#### **NMED Comment 4: The EPA FIP is unduly prescriptive with respect to techniques required of NMED.**

Contrary to 40 CFR § 51.101 (b), (e), and (g), EPA’s action is (1) encouraging NMED to adopt a particular control strategy without taking into consideration cost-effectiveness; (2) is precluding NMED from a control strategy that

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<sup>1</sup> <https://www.federalregister.gov/d/2024-01064/p-407>

<sup>2</sup> <https://www.federalregister.gov/d/2024-01064/p-431>

<sup>3</sup> <https://www.federalregister.gov/d/2024-01064/p-439>

provides for attainment and maintenance of a national standard, and (3) is encouraging a state to adopt uniformly applicable strategies when a satisfactory alternative exists.

Specifically, EPA provides no justification as to why it is requiring the 30 tons per year of NO<sub>x</sub> emission reductions to specifically come from electrical generating units (EGUs), which currently make up only a small fraction of the NO<sub>x</sub> emissions versus non-EGU sources. EPA does not explain why 30 tons per year of emissions reductions from EGUs would fulfill New Mexico's Good Neighbor obligations, while 235 tons per year of NO<sub>x</sub> emissions reductions currently being realized in New Mexico from non-EGU sources as presented in the July 2023 letter would not fulfill the same obligations.



VIA EMAIL

July 5, 2023

Guy Donaldson  
Associate Director, Air Programs  
U.S. Environmental Protection Agency Region 6  
1201 Elm St  
Dallas, Texas 75270  
[Donaldson.Guy@epa.gov](mailto:Donaldson.Guy@epa.gov)

Re: 2015 Ozone Transport (Good Neighbor) State Implementation Plan (SIP)

Dear Mr. Donaldson,

The New Mexico Environment Department (NMED) respectfully requests that the U.S. Environmental Protection Agency (EPA) consider additional quantifiable emissions reductions that EPA did not previously consider in its review of New Mexico's 2015 Ozone Transport (Good Neighbor) State Implementation Plan (SIP) submittal. NMED attaches these data for EPA's consideration as Exhibit A.

EPA has indicated to NMED that it plans to disapprove New Mexico's 2015 Good Neighbor SIP submittal based on revisions EPA made to its modeling that differed from EPA's previous modeling conclusions, such as linking New Mexico receptors to El Paso, Texas instead of Denver, Colorado. During discussions with NMED, EPA indicated that per EPA's revised modeling it may need to issue a Federal Implementation Plan (FIP) to New Mexico to utilize controls specified for certain sectors under EPA's Good Neighbor FIP (88 FR 36654, June 5, 2023). Specifically, EPA identified enhanced use of existing control systems at two New Mexico Electric Generating Units (EGUs) as controls that a FIP would include. Using the formula applied under its Good Neighbor FIP for other states, EPA estimated that a 30 ton per year reduction in NO<sub>x</sub> emissions would be required from these facilities. EPA indicated that this 30 ton per year reduction would be all that is necessary to meet its Good Neighbor FIP requirements.

With this letter, NMED alerts EPA to additional quantifiable emissions that EPA did not consider in its review of the Good Neighbor SIP submittal. These reductions will far exceed EPA's proposed 30 ton per year reduction requirement as the result of a Good Neighbor FIP. Specifically, NMED's Air Quality Bureau has issued two federally enforceable compliance orders since 2020 and entered into a consent decree with a federal court just this year that will result in large reductions in nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) in southern New Mexico's Permian Basin.

The two compliance orders: (1) AQB 20-63 for ETC Texas Pipeline Ltd.'s Jal #3 plant and (2) AQB 20-64 for DCP Operating Company, LP's Eunice Gas Plant, result in emissions reductions of 236 tons per year of NO<sub>x</sub> and 58 tons per year of VOC that are already realized this year. The consent decree, which concerns Matador Production Company, will result in an additional reduction of 77 tons of NO<sub>x</sub> over the next three years and requires an accelerated conversion of pneumatic controllers that will result in a reduction of an estimated 270 tons of VOCs by 2030 and an additional 67 tons per year of VOCs for the life of the controllers. The calculations of estimated

emission reductions associated with each of the three current enforcement actions is further described in Exhibit A.

NMED requests that EPA consider the additional quantifiable emissions reductions resulting from these three enforcement actions in its review of New Mexico's 2015 Good Neighbor SIP submittal. These emissions reductions of ozone precursors are far larger than would be required under a Good Neighbor FIP and demonstrate that New Mexico's state driven initiatives, rules, and enforcement program more than satisfy the requirement that it be a Good Neighbor.

Respectfully,

**Michelle  
Miano**  Digitally signed by  
Michelle Miano  
Date: 2023.07.05  
11:12:54 -06'00'

Michelle Miano  
Environmental Protection Division Director  
New Mexico Environment Department

cc: David Garcia, Air and Radiation Director, EPA Region 6, [garcia.david@epa.gov](mailto:garcia.david@epa.gov)

## Exhibit A

### Estimates of Emission Reductions

For the compliance order against DCP’s Eunice Gas Plant the estimated reduction is calculated by averaging the total plant emissions inventories for the year’s 2019 and 2020. A small amount of equipment (3 engines and SSM emissions) remains at this site as the Amanda Booster Station. The Amanda Booster Station operates under a GCP-Oil and Gas general permit. No emissions inventories available for this new facility, so emissions were estimated based on the allowable emissions under the GCP permit. These emissions for Amanda Booster Station were subtracted from the totals for Eunice Gas Plant to provide the net emissions reductions shown in the table in below.

	Reduction(based on emission inventory for years 2019, 2020, and GCP permit allowable emissions)		
Requirement	Decreases in NOx emissions	Decreases in VOC emissions	Decreases in SOx emissions
Shutdown of Eunice Gas Plant except for Amanda Booster Station	231.4 tons per year	58.0 tons per year	1304.3 tons per year

The compliance order against ETC Texas Pipeline Ltd’s Jal #3 plant shows emissions reductions based on the actual emissions inventories from the year 2019 for the Sulfur Recovery Unit (SRU) that was subsequently removed under the compliance order. It is important to note that many of the emissions from Jal #3 resulted from emissions at the treatment flare from the SRU down-time so these reductions also appear in the table.

	Reduction		
Requirement	Decreases in NOx emissions	Decreases in VOC emissions	Decreases in SOx emissions
Removal of SRU from Jal #3 permit <sup>1</sup>	4.8 tons per year	0.19 tons per year	208.6 tons per year
Reduction in treatment Flare emissions <sup>2</sup>	0.1 tons per year	0.43 tons per year	534.1 tons per year

<sup>1</sup> based on emission inventory for year 2019.

<sup>2</sup> based on emission inventory for year 2022 minus 2021 emissions inventory.

The estimated emissions reductions for the Consent Decree for Matador Production Company were estimated by the respective companies and received general agreement from EPA, based on the requirements in the Consent Decrees for injunctive relief (enhanced control and monitoring of vapor control systems) and mitigation.

Matador Production Company

Requirement	Reduction by 2030			Reductions post 2030		
	Decreases in NOx emissions	Decreases in VOC emissions	Decreases in SOx emissions	Decreases in NOx emissions	Decreases in VOC emissions	Decreases in SOx emissions
Replacement of Tier 2 engines with Tier 4 engines	77 tons total (over 3 years)	NE*	NE*	NE*	NE*	NE*
accelerated pneumatic controller conversion	NE*	270 tons total	NE*	NE*	Additional 67.6 tons per year	NE*

\*NE = not estimated