

Air Quality Bureau’s Responses to Comments Received on June 1, 2018 from EPA Regarding New Mexico’s Good Neighbor SIP for the 2008 8-Hour Ozone NAAQS.

1. Please flesh out the ‘Executive Summary’ on Page 2 to include discussion about court rulings that led to Finding of Failure to Submit (e.g., “EPA issued the memo in response to a 2012 court decision that States had no obligation to submit good neighbor SIPs until the EPA had first quantified each state’s good neighbor obligation (*EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 31 (D.C. Cir. 2012)).

AQB Response:

AQB will add the following text to the end of the second paragraph:

“EPA issued this memo in response to a 2012 court decision that held, among other things, that states had no obligation to submit Good Neighbor SIPs until the EPA had first identified or quantified a state’s Good Neighbor obligation. (*EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 31 (D.C. Cir. 2012). Accordingly, the submittal deadline for Good Neighbor SIPs under the CAA would not necessarily be tied to the promulgation of a new or revised NAAQS. As a result, the EPA did not issue findings that states had failed to submit SIPs addressing the Good Neighbor requirements in CAA Section 110(a)(2)(D)(i)(I). (80 Fed. Reg. 39,963 (July 13, 2015)).

The litigation regarding ozone transport was not resolved by the U.S. Supreme Court until April 29, 2014 when the Court reversed the D.C Circuit’s decision and held, among other things, that under the plain language of the CAA, states must submit SIPs addressing the Good Neighbor requirement in CAA Section 110(a)(2)(D)(i)(I) within 3 years of promulgation of a new or revised NAAQS, regardless of whether the EPA first provides guidance, technical data or rulemaking to quantify the state’s obligation. (*Id.* at 39,964). Shortly thereafter, environmental groups (WildEarth Guardians and Sierra Club) filed two separate cases against EPA for not issuing “findings of failure to submit,” as required by the CAA, against states that failed to submit Good Neighbor SIPs by the 2011 deadline. On January 22, 2015, EPA issued a memo, *Information on the Interstate Transport “Good Neighbor” Provision for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) under Clean Air Act (CAA) Section 110(a)(2)(D)(i)*, providing information to states regarding Good Neighbor SIPs for the 2008 ozone NAAQS. On May 15, 2015, the court ruled in favor of the environmental groups and ordered EPA to issue the findings of failure to submit. (80 Fed. Reg. 39,963 to 39,964 (July 13, 2015) (providing history of litigation on ozone transport issues).

After this court decision was overturned. . .”

2. Table 1 on Page 6(7). Were emissions reductions for San Juan Generating Station accounted for in the modeling run conducted by EPA in August 2015 for Jefferson County, CO. Rocky Flats – North Monitor site # 80590006?

AQB Response:

In follow-up discussions with EPA; EPA indicated that an in-depth analysis of the changes that were made to the modeling assumptions that were used in August 2015 versus September 2016, is not required for this certification. The most recent modeling runs utilize the best assumptions available to EPA (e.g. current emissions data for San Juan Generating Station), and indicate that New Mexico will not have a significant impact on nonattainment or maintenance receptors in Denver in 2023.

3. Table 1 on Page 6(7). In reference to modeling run conducted by EPA in September 2016: “The real story is that this modeling (“the final CSAPR Update Modeling”) run shows that NM’s emissions were not linked to any non-attainment receptors in any other state. However, it does show a linkage to NREL, which is a maintenance receptor.”

AQB Response:

Footnotes have been added to emphasize this point.

4. Table 1 on Page 6(7). In reference to modeling run conducted by EPA in September 2016: “Are the SJGS emission reductions captured in this run? Is that a major reason why this contribution and the Aug 2015 contribution are so different? If so, I think it’s worth noting somewhere.”

AQB Response:

In follow-up discussions with EPA; EPA indicated that an in-depth analysis of the changes that were made to the modeling assumptions that were used in August 2015 versus September 2016, is not required for this certification. The most recent modeling runs utilize the best assumptions available to EPA (e.g. current emissions data for San Juan Generating Station), and indicate that New Mexico will not have a significant impact on nonattainment or maintenance receptors in Denver in 2023.

5. Page 7(8), Item #1, Paragraph 1. Clarify what is considered “insignificant” regarding contribution.

AQB Response: Revise the paragraph as follows:

1. **Insignificance of modeled New Mexico contribution by 2023.** EPA’s own modeling data suggests that New Mexico’s contribution to ~~[attainment difficulties at two]~~ the nonattainment and maintenance receptors in Jefferson County ~~[monitors]~~ will ~~[decline substantially over time, becoming insignificant, as defined by EPA]~~ decrease to levels less than 1%, by 2023. This is most accurately assessed in the modeling runs released in September and December of 2016 shown in Table 1 (which featured updated data input, as discussed below). At all ~~[of the]~~ remaining monitor sites throughout the United States,

New Mexico's contribution to attainment difficulties ~~[will]~~ are projected to be ~~[insignificant]~~ less than 1% through 2023.

6. Page 7, Item #1, Paragraph 2, line 5. Word "monitored" should be "modeled".

AQB Response: Agree.

7. Page 7(8), Item #1, Paragraph 2, last sentence. "I think this should state that the modeling released in August of 2015 showed emissions from all SJGS units, where the modeling released in September 2016 had been updated with new more accurate emissions from SJGS. I think that is what happened."

AQB Response:

In follow-up discussions with EPA; EPA indicated that an in-depth analysis of the changes that were made to the modeling assumptions that were used in August 2015 versus September 2016, is not required for this certification. The most recent modeling runs utilize the best assumptions available to EPA (e.g. current emissions data for San Juan Generating Station), and indicate that New Mexico will not have a significant impact on nonattainment or maintenance receptors in Denver in 2023.

In addition, AQB will add the following text at the end of the second paragraph:

"The updated September 2016 modeling data reflects more accurate NOx emissions data for San Juan Generating Station (SJGS) than the August 2015 modeling data."

8. Page 7(8), Item #1, Paragraph 3. Reword for clarity.

AQB Response: Revise the paragraph as follows:

"For the NREL monitor site #80590011, ~~[one model run]~~ deemed a 2017 "maintenance" receptor, the September 2016 modeling results for future year 2017 showed a very slight exceedance of EPA's 1% contribution threshold, by 0.02 ppb. ~~[EPA's methodology deemed this site a 2017 "maintenance" receptor. In this modeling, EPA projected that New Mexico would contribute more than 1% of the NAAQS to ambient ozone levels at this monitor. However, additional EPA modeling, based on updated methodology, showed that the very slight modeled NAAQS exceedance for 2017 was no longer present by 2023.]~~ However, projecting these results to 2023, taking into account air quality emissions reductions scheduled to take place between 2017 and 2023, EPA's modeling shows that New Mexico will no longer be linked to this receptor in 2023. EPA's modeling. . ."

9. Page 7(8), Item #1, Paragraph 4. I think I'd say, "will contribute less than 1%... at both sites"

AQB Response: Revise the paragraph as follows:

"Thus, for both of the ~~[monitor]~~ monitoring sites discussed above, the most recent EPA modeling projections show both sites to be in attainment for the 2008 ozone NAAQS by 2023. New Mexico's modeled emissions ~~[will not]~~ are projected to contribute ~~[more]~~ less than 1% of the NAAQS at ~~[either site]~~ both sites in 2023. . ."

10. Page 8(9), Item #2, Subitem b, sentence 3. Insert the following at the end of sentence: “and going forward.”

AQB Response: agreed.

11. Page 10(11), Item #4. Public comment closed on May 7, 2018 it looks like no relative adverse comments were received.

AQB Response: Revise the paragraph as follows:

1. **Exceptional Event Demonstration for Denver area.** On April ~~[5]~~ 6, 2018, the State of Colorado issued a proposed ozone Exceptional Events Demonstration for public review and comment, under EPA’s exceptional events data exclusion rule (“Exceptional Events Rule”), for wildfire events that occurred on September 2 and 4, 2017. The comment period closed on May 16, 2018, which was a requested extension from the original May 9, 2018 date. (Exceptional Event Demonstration for Ozone on September 2 and 4, 2017 Air Pollution Control Division CDPHE June 1, 2018. https://www.colorado.gov/airquality/tech_doc_repository.aspx?action=open&file=TSD_Ozone_Sep_2_and_4_2017_20180405.pdf).