6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2018-0705; FRL-10002-28-Region 6]

Air Plan Approval; New Mexico; Interstate Transport Requirements for the 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act, (CAA or Act), the Environmental Protection Agency (EPA) is proposing action on submissions from the State of New Mexico and the City of Albuquerque – Bernalillo County that are intended to demonstrate that the New Mexico State Implementation Plan (SIP) meets certain interstate transport requirements of the CAA for the 2008 ozone National Ambient Air Quality Standards (NAAQS). These submissions address interstate transport, CAA section 110(a)(2)(D)(i)(I), which requires each state's SIP to prohibit emissions which will significantly contribute to nonattainment or interfere with maintenance of the NAAQS in other states. The EPA is proposing to approve these submittals based on the conclusion that New Mexico will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

ADDRESSES: Submit your comments, identified by Docket Number EPA-R06-OAR-2018-0705, at *http://www.regulations.gov* or via email to *fuerst.sherry@epa.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not

submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Sherry Fuerst, 214-665-6454, *fuerst.sherry@epa.gov*. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, 214-665-6454, *fuerst.sherry@epa.gov*. To inspect the hard copy materials, please schedule an appointment with Ms. Fuerst or Mr. Bill Deese at 214-665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

I. Background

On March 12, 2008, the EPA revised the levels of the primary and secondary 8-hour ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436, March 27, 2008).

Primary standards are set to protect human health while secondary standards are set to protect public welfare. The 2008 ozone NAAQS are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to the NAAQS, as determined in accordance with appendix P to 40 CFR part 50.[1] This action is being taken in response to the promulgation of the 2008 8-hour ozone NAAQS.

The CAA requires states submit, within three years after promulgation of a new or revised standard, SIP revisions meeting the applicable "infrastructure" elements of sections 110(a)(1) and (2). One of these applicable infrastructure elements, CAA section 110(a)(2)(D)(i)(I), requires SIPs to contain provisions to prohibit certain adverse air quality effects on downwind states due to interstate transport of pollution. Specifically, section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised standard contain adequate provisions to prohibit any emissions activity within the State from emitting air pollutants that will "contribute significantly to nonattainment" (sub-element 1) or "interfere with maintenance" (sub-element 2) of the applicable air quality standard in any other state.[2]

Ozone is not emitted directly into the air but is created by chemical reactions between oxides of nitrogen (NO_x) and volatile organic compounds (VOCs) in the presence of sunlight. Emissions from electric utilities and industrial facilities, motor vehicles, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOCs. Because ground-level ozone formation increases with temperature and sunlight, ozone levels are generally higher during the

[1] Under appendix P, digits to the right of the third decimal place are truncated.
[2] All other parts of the infrastructure SIP for the State of New Mexico were submitted on September 14, 2013 and final approval was published June 24, 2015 (80 FR 36246). All other parts of the 2008 ozone infrastructure SIP for City of Albuquerque – Bernalillo County were submitted December 26, 2008 and final approval was published September 19, 2013 (77 FR 58032).

summer. Increased temperature also increases emissions of VOCs and can indirectly increase NO_x emissions (*See* 81 FR 74504, 74513, October 26, 2016).

EPA has established a four-step interstate transport framework to address the sub-element 1 and 2 requirements for ozone and fine particulate matter ($PM_{2.5}$) NAAQS through the development and implementation of several previous rulemakings.[3] The four steps of this framework are as follows: (1) identify downwind air quality problems; (2) identify upwind states that impact those downwind air quality problems enough to warrant further review and analysis; (3) identify the emissions reductions, if any, necessary to prevent an identified upwind state from contributing significantly or interfering with maintenance with respect to those downwind air quality problems; and (4) adopt permanent and enforceable measures needed to achieve those emissions reductions. The EPA has applied this framework in various actions addressing sub-elements 1 and 2 for the $PM_{2.5}$ and ozone NAAQS.[4] In prior actions, the EPA has concluded that states with impacts on downwind nonattainment and maintenance receptors less than 1% of the 2008 ozone NAAQS do not significantly contribute to nonattainment or interfere with maintenance pursuant to CAA section 110(a)(2)(D)(i)(I). This framework will be followed in this evaluation.

To assist states with meeting section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS, the EPA has conducted interstate ozone transport modeling, provided informational

[3] *See, e.g.*, Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone (also known as the NOx SIP Call), 63 FR 57356 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25 162 (May 12, 2005); Cross-State Air Pollution Rule (CSAPR) final rule. 76 FR 48208 (August 8, 2011); CSAPR Update final rule. 81 FR 74504 (October 26, 2016).

[4] *See, e.g.*, "Interstate Transport Prongs 1 and 2 for the 2012 Fine Particulate Matter ($PM_{2.5}$) Standard for Colorado, Montana, North Dakota, South Dakota and Wyoming," 83 FR 21227 (May 9, 2018); "Approval and Promulgation of Air Quality State Implementation Plans; California; Interstate Transport Requirements for Ozone, Fine Particulate Matter, and Sulfur Dioxide," 83 FR 5375 (February 7, 2018), "Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; Infrastructure Requirements to Address Interstate Transport for the 2008 Ozone NAAQS", 81 FR 15200 (March 22, 2016).

memos, issued two Notices of Data Availability (NODAs), and issued regional rules that use the four-step framework to evaluate states' interstate transport obligations. The modeling data were developed to inform our analysis, in various actions, of downwind air quality problems and upwind state impacts on those problems. We published and requested public comment on interstate ozone transport modeling data for two different analytic years. For the purposes of this document, we will be referring to the data from these as the "Transport Future Year 2017 modeling"[5] and the "Transport Future Year 2023 modeling."[6] The final version of the Transport Future Year 2017 modeling was released with the CSAPR Update and included projections of downwind nonattainment and maintenance receptors as well as calculations of the projected impacts of upwind states to these downwind receptors. The latest version of the Transport Future Year 2023 modeling relied on in this action was released in an October 27, 2017 memorandum "Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section

[5] *See* Notice of Availability of the Environmental Protection Agency's Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard (NAAQS), 80 FR 46271 (August 4, 2015); *see also* "Updated Air Quality Modeling Technical Support Document for the 2008 Ozone NAAQS Transport Assessment," August 2015 (included in the docket to the NODA); *see also* the final updated modeling known as the "Transport Future Year 2017 Model" with all design values (DVs) for all monitors in all states (both east and west) and all states contribution breakouts for all monitors in the CSAPR Update docket; EPA-HQ-OAR-2015-0500-0459, 2017 Ozone Contributions, https://www.regulations.gov/document?D=EPA-HQ-OAR-2015-0500-0459; "Air Quality Modeling Technical Support Document for the Final Cross State Air Pollution Rule Update; August 2016"; (aq_modeling_TSD_final_CSAPR_update.pdf at https://www.epa.gov/airmarkets/air-quality-modeling-technical-support-document-final-cross-state-air-pollution-rule).

[6] *See* Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone National Ambient Air Quality (January 6, 2017, 82 FR 1733) https://www.regulations.gov/docket?D=EPA-HQ-OAR-2016-0751 for the original notice and data file. The updated information including supplemental data with updated contribution analysis can be found at EPA's Clean Air Markets internet page "Memo and Supplemental Information Regarding Interstate Transport SIPs for the 2015 Ozone NAAQS" https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs. "Air Quality Modeling Technical Support Document for the 2015 Ozone NAAQS Preliminary Interstate Transport Assessment; December 2016" https://www.epa.gov/sites/production/files/2017-01/documents/aq_modeling_tsd_2015_o3_naaqs_preliminary_interstate_transport_assessmen.pdf https://www.epa.gov/airmarkets/air-quality-modeling-technical-support-document-2015-ozone-naaqs-preliminary-interstate).

110(a)(2)(D)(i)(I)."[7] The modeling projections of downwind nonattainment and maintenance receptors as well as calculations of the projected impacts of upwind states to these downwind receptors was released in a March 27, 2018 memorandum "Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)."[8]

Using the four step framework and considering the information in the memos, the underlying modeling information and NODA's discussed above, EPA conducted a Weight of Evidence (WOE) evaluation of the State of New Mexico SIP submittal (submitted by the New Mexico Environment Department), the City of Albuquerque – Bernalillo County SIP submittal (submitted by the City of Albuquerque Environmental Health Department) and the New Mexico SIP.

II. New Mexico's and City of Albuquerque-Bernalillo County's NAAQS Infrastructure Submissions

The New Mexico Environment Department (NMED) and City of Albuquerque Environmental Health Department (EHD) each provided submissions intended to demonstrate how the existing New Mexico SIP meets the applicable 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. The NMED submittal was received on October 10, 2018[9] while the EHD submittal was made on October 4, 2018. Because the City of Albuquerque and Bernalillo County are a separate, combined jurisdiction from the rest of New Mexico for air quality purposes, the

[7] *See* Supplemental Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), October 27, 2017, available in the docket for this action and at https://www.epa.gov/sites/production/files/2017-10/documents/final_2008_o3_naaqs_transport_memo_10-27-17b.pdf.

[8] *See* Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I), March 27, 2018, available in the docket for this action and at https://www.epa.gov/sites/production/files/2018-03/documents/transport_memo_03_27_18_1.pdf.

[9] The cover letter is dated July 24, 2018.

agencies for each jurisdiction made separate submittals to EPA for the 110(a)(2)(D)(i)(I) requirement for 2008 ozone NAAQS. NMED made the submittal on behalf of the New Mexico governor for the City of Albuquerque - Bernalillo County. NMED made the submittal covering the remainder of the State. Each submittal applied a common analytical framework addressing the State as a whole.

Relevant statutes and local ordinances convey the legislative authority for these submittals. Legislative authority for New Mexico's air quality program is codified in Chapter 74 (Environmental Improvement) of the New Mexico Statutes Annotated 1978 (NMSA 1978), which gives the State Environmental Improvement Board and NMED the authority to implement the CAA in New Mexico. Legislative authority for the City of Albuquerque - Bernalillo County Air Quality Control Board and EHD is codified in NMSA 1978 section 74-2-4 and in local ordinances, Revised Ordinances of the City of Albuquerque sections 9-1-5-1 to 9-1-5-99, and Bernalillo County Ordinances sections 30-31 to 30-47.

The authority to implement air quality programs under State statutes is contained in the New Mexico Administrative Code (NMAC), specifically Title 20, Chapter 2 - Air Quality (Statewide) and Title 20, Chapter 11 – City of Albuquerque - Bernalillo County Air Quality Control Board. These regulations are part of the approved New Mexico SIP and cited in 40 CFR 52.1620(c).

In their submittals, NMED and EHD, both point to certain rules and the Statutes Codified at Title 74 of the NMSA (the Air Quality Control Act 74-2-1) in the infrastructure SIPs (i-SIPs) to support their authority that the New Mexico SIP meets the requirements to prohibit certain adverse air quality effects on downwind states due to interstate transport of pollution. Specifically, they assert in the submittals that the SIP contains adequate provisions to prohibit

any emissions activity within the State from emitting air pollutants that will "contribute significantly to nonattainment" (sub-element 1) or "interfere with maintenance" (sub-element 2) of the applicable air quality standard in any other state.

NMED's portion of the SIP contains enforceable emission limitations and other control measures for ozone and its precursors (including NO_x and VOCs) in Title 20 Chapter 2 of the New Mexico Administrative Code, Parts 3, 5, 7, 8, 10, 32-34, 72-75, 79, and 99. EHD's portion of the SIP contains enforceable emissions limitations and other control measures for any NAAQS, including ozone and its precursors in Title 20, Chapter 11 NMAC Parts 1-8, 40-41, 47, 49, 60-61, 63-67, 90, and 102. New Mexico and Bernalillo County regulations that have been approved in the New Mexico SIP can be found listed at 40 CFR 52.1620(c).

Both agencies point to the rules for New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPS), and Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants (MACT).

We note that the SIP approved rules for NMED at 20.2.7.200.A(3) and (6) require that a source subject to NSPS, NESHAPS, and/or MACT must obtain a New Source Review (NSR) SIP Permit. The SIP approved rule at 20.2.72.208 requires that an NSR SIP permit cannot be issued if violations of the NAAQS, NSPS, NESHAPS, MACT, PSD increment, NMED rules, and NMED statutes would occur. The EHD SIP approved rules incorporate by reference the requirement to meet New Source Performance Standards for Stationary Sources, in 20.11.63 NMAC, and Emission Standards for Hazardous Air Pollutants for Stationary Sources in 20.11.64 NMAC. We note that SIP approved rule for EHD at 20.11.41.2.B.1 NMAC requires that sources within Bernalillo County subject to NSPS and NESHAP must obtain an NSR SIP permit. The

SIP approved rule at 20.11.41.16(A) requires that an NSR SIP permit cannot be issued if violations of the NAAQS, NSPS, NESHAPS, Board rule, and Air Quality Control Act would occur. The SIP approved rule at 20.11.41.18.B reiterates this.

NMED and EHD also considered the EPA's modeling when developing their SIP submittals intended to demonstrate that their SIP meets CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS. They state that neither the Transport Future Year 2017 modeling nor the Transport Future Year 2023 modeling linked New Mexico to any nonattainment receptors in other states. They note that the Transport Future Year 2017 modeling linked New Mexico to one maintenance receptor, National Renewable Energy Lab (NREL), monitor 080590011, in Jefferson County, Colorado, but that the Transport Future Year 2023 modeling did not show New Mexico linked to any maintenance receptors in other states.

In their submittals, NMED and EHD conclude, using a WOE approach, that New Mexico emissions will not contribute significantly to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in other states. They based their WOE conclusion on four elements: (1) The insignificance of EPA modeled impact on nonattainment and maintenance receptors of concern in 2023; (2) Control measures scheduled to be implemented through 2023 that were incorporated into EPA's modeling; (3) An attainment demonstration approved for the Denver nonattainment area for the 2008 ozone NAAQS; And, (4) an exceptional events demonstration for wildfires, which occurred in 2017 that supported the Denver attainment demonstration.

As discussed above, it was necessary for both NMED and the EHD to make independent submittals to demonstrate how the existing New Mexico SIP meets the applicable CAA section 110(a)(2)(D)(i)(I) requirements for the 2008 ozone NAAQS because the organizations have authority for air pollution control in different areas of the State. The submittals, however, are

sufficiently similar that for our evaluation we will refer to the departments jointly as "New Mexico" in this document.

III. EPA's Evaluation

A. EPA's Sub-Element 1 Evaluation (Do emissions originating in New Mexico contribute significantly to the nonattainment of the 2008 ozone NAAQS in other states?)

EPA reviewed all elements of the WOE analysis provided in the New Mexico submittals as well as additional relevant technical information to determine whether the SIP has adequate provisions to ensure emissions from the State will not contribute significantly to nonattainment of the 2008 ozone NAAQS in a downwind state. While we reviewed all 4 elements of New Mexico's submittal we found elements 1 and 2 to be the most relevant and persuasive with consideration of the additional information provided by EPA's Transport Future Year 2017 modeling analysis. The EPA conducted this review within the established four-step interstate transport framework.

Step 1 - Identification of Downwind Air Quality Problems

In order to determine whether a state will contribute significantly to nonattainment of the NAAQS in other states, the EPA first identifies projected nonattainment problems in a future analytic year (step 1 of the four-step framework). As mentioned above, EPA identifies nonattainment receptors as those monitoring sites that have projected average Future Design Values (FDVs)[10] exceeding the NAAQS. Both models discussed in Section I above (Transport

[10] The modeling analyses projects FDVs by adjusting observed ambient concentrations during a selected base-case year using a ratio based on changes in model response at a receptor due to changes in emissions between the base-case year and the future year. The average FDV is calculated using an average base DV that is an average of the three DVs that include the 2011 base-case year in the DV. In this case, it is the average of the DVs (2009-2011 DV, 2010-2012 DV, and 2011-2013 DV). The maximum FDV is calculated using a maximum base DV that includes the base-case 2011 year in the DV. In this case, it is the maximum DV of the 2009-2011 DV, 2010-2012 DV, and 2011-2013 DV. Both the average and maximum DVs are adjusted using model response changes due to emissions changes between 2011 and the future analysis years of either 2023 and 2017.

Future Year 2017 model and Transport Future Year 2023 model) evaluated potential downwind air quality problems and projected contributions from upwind states to downwind receptors.

Both the Transport Future Year 2017 modeling and Transport Future Year 2023 modeling utilized a modeled base-case year of 2011 and monitoring data from the 2009-2013 period to establish the base period DVs. The Transport Future Year 2017 model projected downwind air quality problems and upwind state contributions using meteorological input from the base-case period (2011) with source emissions data estimated for the future year 2017 to yield model projected ozone levels in the future year analysis (2017), also called the "2017 analytic year." The Transport Future Year 2023 model projected downwind air quality problems and upwind state contributions using meteorological input from the base-case period (2011) with source emissions data estimated for the future year 2023 to yield model projected ozone levels for the future year 2023 analysis, also called the "2023 analytic year." The Transport Future Year 2017 model forecasted nonattainment receptors located in several areas across the continental United States for the 2008 ozone NAAQS. The Transport Future Year 2023 model forecasted nonattainment receptors only in California for the 2008 ozone NAAQS.

Step 2 – Identify upwind states that impact those downwind air quality problems enough to warrant further review and analysis

Consistent with previous rulemakings,[11] EPA applied a threshold of 1% of the 2008 ozone NAAQS of 75 ppb (0.75 ppb) to identify linkages at step 2 between upwind states and downwind nonattainment receptors. Accordingly, if a state's impact on identified downwind

[11] *See* Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone (also known as the NOx SIP Call), 63 FR 57356 (October 27, 1998); Clean Air Interstate Rule (CAIR) Final Rule, 70 FR 25162 (May 12, 2005); CSAPR Final Rule, 76 FR 48208 (August 8, 2011); CSAPR Update for the 2008 Ozone NAAQS (CSAPR Update) Final Rule, 81 FR 74504 (October 26, 2016).

receptors did not equal or exceed 0.75 ppb, the state was not considered "linked" to those receptors and was not considered to contribute significantly to nonattainment or interfere with maintenance of the standard in those downwind areas. However, if a state's impact equaled or exceeded the 0.75 ppb threshold, that state was considered "linked" to the downwind nonattainment or maintenance receptor(s) and further analysis was conducted at step 3 to determine whether the state significantly contributes to nonattainment and in what degree.

As further discussed in our Technical Support Document (TSD) for this action, neither the 2017 nor the 2023 modeling showed New Mexico linked to any nonattainment receptor. The largest impact New Mexico was forecasted by the Transport Future Year 2017 model to make on a nonattainment area (Imperial County, California) was 0.26 ppb, well under EPA's 1% threshold. Likewise, the largest impact New Mexico is forecasted by the Transport Future Year 2023 model to make on a nonattainment area (Imperial County, California) is 0.13 ppb, again, well under EPA's 1% threshold. Since New Mexico is not forecasted to be linked to nonattainment areas at step 2 of the four-step interstate transport framework, undertaking a review of and analyses for the remainder of the four-step process is not warranted. Accordingly, the EPA proposes to agree with the NMED and EHD submittals based on the conclusion that New Mexico will not contribute significantly to nonattainment in any other state and therefore proposes to approve the two SIP revisions with respect to sub-element 1 of the good neighbor provision.

B. EPA's Sub-Element 2 Evaluation (Do emissions originating in New Mexico interfere with maintenance of the 2008 ozone NAAQS in other states?)

As described in EPA's Sub-Element 1 Evaluation, EPA reviewed all elements of WOE analysis presented in the New Mexico submittals and additional relevant technical information to

determine whether the SIP has adequate provisions to ensure emissions from the State will not interfere with maintenance of the 2008 ozone NAAQS in a downwind state.

Step 1 - Identification of Downwind Air Quality Problems

In order to determine whether a state will interfere with maintenance of the NAAQS in downwind states, EPA first identifies projected maintenance problems in a future analytic year (i.e. step 1 of the four-step framework). EPA identifies maintenance receptors as those monitoring sites with projected maximum FDVs exceeding the NAAQS. As discussed, we have two relevant interstate ozone transport modeling analysis, the Transport Future Year 2017 model analysis and the Transport Future Year 2023 model analysis. The Transport Future Year 2017 model projected maintenance receptors located in several areas across the continental United States for the 2008 ozone NAAQS. The Transport Future Year 2023 model projected maintenance receptors only in California for the 2008 ozone NAAQS.

Step 2 - Identify upwind states that impact those downwind air quality problems enough to warrant further review and analysis

As above and consistent with previous rulemakings,[12] EPA applied a threshold of 1% of the 2008 ozone NAAQS of 75 ppb (0.75 ppb) to identify linkages at step 2 between upwind states and downwind maintenance receptors. EPA's Transport Future Year 2017 model analysis indicated New Mexico was linked to one maintenance receptor, NREL, monitor 080590011, in Jefferson County, Colorado with a maximum modeled 2017 future DV of 0.78 ppb (above the 0.75 ppb 2008 ozone NAAQS), and the modeling-based contribution from New Mexico is 0.77 ppb (above the 0.75 ppb 1% contribution threshold by 0.02 ppb). The Transport Future Year 2023 model analysis did not show New Mexico linked to any maintenance receptors in 2023.

[12] *See* Footnote 3.

The currently applicable ozone attainment date for the 2008 NAAQS in the Denver area is July 2021 and would apply to the NREL receptor. We, however, have not conducted any air quality modeling aligned with the 2021 attainment date, so we evaluated available modeling and emissions data to determine whether we would expect the linkage identified in the 2017 modeling to persist in a year aligned with the applicable attainment date, 2021. As discussed further below, we believe that the New Mexico contribution is currently below the 1% threshold.

EPA examined the projected decrease in New Mexico's anthropogenic NOx emissions inventories between the Transport Future Year 2017 (156,783 tons of NOx) and Transport Future Year 2023 modeling analyses (130,318 tons of NOx), see TSD for full analysis. We evaluated the change in New Mexico's anthropogenic NOx emissions since previous EPA regional modeling has indicated reductions in NOx emissions result in more ozone reductions in the context of reducing upwind state impacts on downwind receptors in other states.[13] Regional modeling in Colorado and Denver also indicate that area ozone levels are more sensitive to NOx reductions. There is a projected decrease of 26,465 tons of NOx (approximately 17%) between 2017 and 2023 with most of these reductions (22,292 tons of NOx) occurring from fleet turnover in onroad, nonroad, and rail emissions. New Mexico's Electrical Generating Unit (EGU) NOx emissions are also projected to decrease by 939 tons (approximately 7% of EGU NOx emissions) between 2017 and 2023. The Transport Future Year 2017 analysis includes controls put on San Juan Generating Station Units 1 and 4 and the Transport Future Year 2023 analysis also included

[13] CSAPR Update final rule. 81 FR 74504 (October 26, 2016) Section IV pgs.74513-74516. Including "The EPA has previously concluded in the NOX SIP Call, CAIR, and CSAPR that, for reducing regional-scale ozone transport, a NOX control strategy is effective."

reductions due to the enforceable shutdowns of units 2 and 3 by December 31, 2017 as part of Regional Haze Best Available Retrofit Technology ("BART") SIP.[14]

Since most of the decreases in New Mexico's anthropogenic NOx emissions are from mobile, onroad, and rail source categories that change annually due to fleet turnover, it is reasonable, in this case, to assume that the change in New Mexico's anthropogenic NOx emissions and downwind ozone impacts is approximately linear for these categories, which in turn would make the decrease in New Mexico contributions to the NREL receptor approximately linear.[15]

In March 2018 EPA released modeling contribution data for 2023. We used the daily contribution data from this 2023 modeling as part of the process for estimating contributions in the 2020 analytic year. This process included a linear interpolation of contributions between 2017 and 2023 to estimate the contribution from New Mexico in 2020. In order to ensure consistency in the 2020 and 2023 contributions for use in interpolating between these two analytic years, EPA calculated the average contribution from New Mexico to the NREL receptor using the underlying daily 2023 contribution data for the same days that were used to calculate the average contribution for 2017. Specifically, the 2017 contribution analysis included 5 days and we used the daily contributions from these same 5 days to calculate the Transport Future Year 2023 average contribution. Using this consistent methodology, the contribution from New Mexico in 2023 is 0.65 ppb in 2023, which is below the 1% contribution threshold.

[14] Approval and Promulgation of Implementation Plans; New Mexico; Regional Haze and Interstate Transport Affecting Visibility State Implementation Plan Revisions, Final Rule, 79 FR 60985, (Oct. 9, 2014).
[15] Linear interpolation may not be appropriate in other situations where, for example, the emissions reductions occur as a single step decline during one of the intervening years, and/or when the magnitude of the emissions reduction is relatively large, and/or when the interpolation is done over a long-time horizon.

We note that change in contribution between 2017 (0.77 ppb) and 2023 (0.65 ppb) is approximately a 16% decrease, which is very similar with the decrease of approximately 17% in New Mexico's anthropogenic NOx emissions inventories between those two years and further supports using linear interpolation in this case. A linear interpolation between the 2017 contribution of 0.77 ppb and the 2023 contribution of 0.65 ppb gives an estimate of the linear rate of decline of the contribution of New Mexico to the NREL monitor of 0.022 ppb per year (0.77 – 0.65)/6. An estimate of the analytic year contribution for 2020 can be calculated by the equation (0.77 – 3*0.022 ppb) = 0.71. Thus, EPA estimates that the contribution of New Mexico to the NREL maintenance monitor is and will continue to be below the 1% threshold, 0.75 ppb, for determining a linkage.

Had future year modeling been performed for an earlier year of 2020 which would align with 2021 Serious area attainment date for Denver area, our analysis indicates that New Mexico's contribution would be below 0.75 ppb to the NREL receptor, regardless of whether NREL was a maintenance receptor for the 2008 ozone NAAQS in that year, and New Mexico would not be linked to the NREL receptor. By this analysis, New Mexico is not forecasted to be linked to NREL or other maintenance receptors at step 2 of the four-step interstate transport framework, thus, completing a review of and analyses for the remainder of the four-step process is not warranted.

Based on our review of the October 10, 2018, NMED submittal and the October 4, 2018, EHD submittal and other relevant information, EPA proposes to approve the submissions based on the conclusion that New Mexico emissions will not interfere with maintenance of the 2008 ozone NAAQS in any other state and therefore propose to approve the two SIP revisions.

IV. Proposed Action

EPA is proposing to (1) determine that consistent with the CAA, that both, New Mexico and City of Albuquerque-Bernalillo County have met their obligation under CAA section 110(a)(2)(D)(i)(I) because New Mexico will not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in any other state and (2) approve the October 10, 2018 New Mexico and October 4, 2018 City of Albuquerque-Bernalillo County SIP revisions for the 2008 ozone NAAQS interstate transport requirements of CAA 110(a)(2)(D)(i)(I).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

• Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 21, 2019.

Kenley McQueen,
Regional Administrator, Region 6.
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