

January 29, 2020

Honorable Andrew R. Wheeler
Administrator
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Proposed Approval of Good Neighbor SIPs for Southeast States;
Docket ID No. EPA-R04-OAR-2019-0156.

Dear Administrator Wheeler:

The Midwest Ozone Group (MOG) is pleased to have the opportunity to comment in support of EPA's proposed rule approving the State Implementation Plan (SIP) revisions from Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee (collectively, Southeast States) related to the Good Neighbor provisions of Section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA) and the 2015 ozone National Ambient Air Quality Standard (NAAQS).

MOG is an affiliation of companies, trade organizations, and associations that draws upon its collective resources to seek solutions to the development of legally and technically sound air quality programs.¹ MOG's primary efforts are to work with policy makers in evaluating air quality policies by encouraging the use of sound science. MOG has been actively engaged in a variety of issues and initiatives related to the development and implementation of air quality policy, including the development of transport rules, NAAQS standards, nonattainment designations, petitions under Sections 176A and 126 of the Clean Air Act, NAAQS implementation guidance, the development of Good Neighbor state implementation plans (SIPs) and related regional haze and climate change issues. MOG Members and Participants own and operate several facilities in the Southeast States. They seek the development of technically and legally sound interstate air pollution rules and actions that may impact on their facilities, their employees, their contractors, and the consumers of their products.

¹ The members of and participants in the Midwest Ozone Group include: American Electric Power, American Forest & Paper Association, American Wood Council, Ameren, Alcoa, Appalachian Region Independent Power Producers Association (ARIPPA), ArcelorMittal, Associated Electric Cooperative, Big Rivers Electric Corp., Citizens Energy Group, Council of Industrial Boiler Owners (CIBO), Duke Energy, East Kentucky Power Cooperative, ExxonMobil, FirstEnergy, Indiana Energy Association, Indiana Utility Group, LGE / KU, Marathon Petroleum, National Lime Association, Ohio Utility Group, Olympus Power, and City Water, Light and Power (Springfield IL).

1. EPA has correctly applied a four-step process to address the Good Neighbor provisions of CAA Section 110(a)(2)(D)(i)(I).

The issue being addressed in the proposed rule is whether the subject SIP submittals by the six Southeast States satisfy the Good Neighbor requirements of CAA Section 110(a)(2)(D)(i)(I) which prohibits a state from significantly contributing to nonattainment or interfering with maintenance of any primary or secondary NAAQS in another state.

MOG supports the approach used by EPA to assess these SIP submittals in which EPA applied the same four-step process that has been previously used to assess interstate transport requirements of the CAA.²

In its March 27, 2018 memorandum, EPA's Peter Tsirigotis³ described the four-step process to be used to address application of the Good Neighbor requirements to the 2015 ozone NAAQS as follows:

- Step 1: identify downwind air quality problems;
- Step 2: identify upwind states that contribute enough to those downwind air quality problems to warrant further review and analysis;
- Step 3: identify the emissions reductions necessary, if any, considering cost and air quality factors, to prevent an identified upwind state from contributing significantly to those downwind air quality problems; and
- Step 4: adopt permanent and enforceable measures needed to achieve those emission reductions.

Relying principally on modeling work performed by EPA to address Step 1 and Step 2 in this analysis, the Southeast States have analyzed downwind nonattainment and maintenance monitors and the contribution that each of the Southeast States make to each of those monitors. In doing so, EPA has properly concluded that all six of these plans are approvable after addressing Step 1 and Step 2 and without the need to address Step 3 and Step 4.

² See: CSAPR (76 FR 48208, August 8, 2011) and CSAPR Update (81 FR 74504, October 26, 2016) in which the four-step process was applied to the 2008 ozone NAAQS.

³ *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)*, prepared by Peter Tsirigotis, March 27, 2018. https://www.epa.gov/sites/production/files/2018-03/documents/transport_memo_03_27_18_1.pdf

2. EPA is correct in concluding that none of the Southeast States exceed the 1% significant contribution test and therefore that the SIP revisions for all six Southeast States should be approved.

EPA has historically applied a 1% significance test to determine whether an upwind state significantly contributes to downwind non-attainment or interference with downwind maintenance areas. EPA's March 27, 2018, memo (related to interstate transport state implementation plan submission involving the 2015 ozone NAAQS) provides a set of contributions by upwind states to downwind states.⁴

While on August 31, 2018, EPA issued guidance in which it analyzed 1 ppb and 2 ppb alternatives to the 1% significance level that it has historically used,⁵ EPA did not need to rely on any Step 2 significance level alternatives in proposing approval of the subject SIP proposals.

With the contribution of each of the six Southeast States below even the historic significant contribution threshold of 1%, there is no need to further evaluate the emissions from any of the six Southeast States. Accordingly, EPA is correct in proposing to approve all six Southeast State SIP submittals.

3. While not relied upon in support of the proposed rule, EPA has very properly preserved a variety of flexibilities for application to the development and approval of the Good Neighbor SIP plans of other states.

In addition to its August 31, 2018, alternative guidance to states on significance levels, EPA has issued other guidance documents that offer states a variety of flexibilities in many additional areas. These include the October 19, 2018, guidance which offers states the option of using an alternative method of identifying maintenance monitors to be addressed in their Good Neighbor SIPs related to the 2015 ozone NAAQS. Other flexibilities are set forth in EPA's March 27, 2018 memorandum of EPA's Peter Tsirigotis⁶ which among other things offer flexibilities in the following areas for consideration:

1. Alternative "state-of-the-science" and "fit for purpose" modeling tools or analysis in addition to EPA's;
2. Assessment of local emission reductions and whether downwind areas have considered and/or used available mechanisms for regulatory relief;
3. Alternative approaches to addressing maintenance monitors;

⁴ *Id.*

⁵ *Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards*, Peter Tsirigotis, August 31, 2018. https://www.epa.gov/sites/production/files/2018-09/documents/contrib_thresholds_transport_sip_subm_2015_ozone_memo_08_31_18.pdf.

⁶ *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)*, prepared by Peter Tsirigotis, March 27, 2018. https://www.epa.gov/sites/production/files/2018-03/documents/transport_memo_03_27_18_1.pdf.

4. Whether the remedy for maintenance monitors should be less stringent than for nonattainment;
5. Alternative base years;
6. Identification of monitors with measurements that occurred during meteorological conditions that are not likely to reoccur in the future;
7. Removal of certain data from modeling based on model performance and technical analysis;
8. Use of different significance level (including different significant levels for different regions);
9. Consideration of international emissions;
10. Developing remedies based on relative impact (ppb/ton); and
11. Others.

Although the proposed rule approving the Southeast States SIPs did not need to rely upon any of these flexibilities, MOG strongly supports EPA's statements preserving these flexibilities for application to the development and approval of the Good Neighbor SIPs of other states. Specifically, in its proposed rule, EPA offers several significant statements related to preserving these flexibilities for application to other states.

With respect to Step 1, EPA offers the following statement:

While the March 2018 memorandum presented information regarding EPA's latest analysis of ozone transport following the approaches EPA has taken in prior regional rulemaking actions, EPA has not made any final determinations regarding how states should identify downwind receptors with respect to the 2015 ozone NAAQS at step 1 of the four-step framework. Rather, EPA noted that states have flexibility in developing their own SIPs to follow different analytical approaches than EPA's, so long as their chosen approach has an adequate technical justification and is consistent with the requirements of the CAA.⁷

Further, although EPA has indicated that states may have flexibilities to apply a different analytic approach to evaluating interstate transport, including identifying downwind air quality problems, because EPA is also concluding in this proposed action that the Southeast States will have an insignificant impact on any potential receptors identified in its analysis, these Southeast States need not definitively determine whether the identified monitoring sites should be treated as receptors for the 2015 ozone standard.⁸

With respect to Step 2, EPA offer the following:

⁷ 84 Fed. Reg. 71856 (December 30, 2019).

⁸ 84 Fed. Reg. 71858 (December 30, 2019) f/n 22.

For purposes of evaluating the Southeast States' 2015 ozone NAAQS interstate transport SIP submission, we propose that, at least where a state's impacts are less than one percent to downwind nonattainment and maintenance sites, it is reasonable to conclude that the state's impact will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in any other state. EPA notes, nonetheless, that consistent with the August 2018 memorandum, it may be reasonable and appropriate for states to use a 1 ppb contribution threshold, as an alternative to a one percent threshold, at step 2 of the four-step framework in developing their SIP revisions addressing the good neighbor provision for the 2015 ozone NAAQS. However, for the reasons discussed below, it is unnecessary for EPA to determine whether it may be appropriate to apply a 1 ppb threshold for purposes of this action.⁹

EPA has correctly determined that even though its approval of these SIPs was based upon the application of a 1% significance level, other states are free to consider alternative significance levels and other flexibilities that were not considered in connection with this proposed rule.

Conclusion

The Midwest Ozone Group supports the proposed rule as a conservative determination by EPA that each SIP of the Southeast States contains adequate provisions demonstrating that emissions from sources in each state that will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state. In addition, MOG supports EPA's approval of the interstate transport portions of the infrastructure SIP submissions of each of the Southeast States as satisfying the requirements of CAA Section 110(a)(2)(D)(i)(I).

Very truly yours,



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⁹ 84 Fed. Reg. 71858 (December 30, 2019).

cc: Submitted to Docket ID No. EPA-R04-OAR-2019-0156.

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