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April 6, 2017

United States Environmental Protection Agency
Air and Radiation Docket and Information Center
1301 Constitution Ave. N.W., Washington, DC 20460
Mail Code: 2822T

Subject: Docket ID No. EPA-HQ-OAR- 2016–0751; Notice of Availability of the Environmental Protection Agency’s Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone National Ambient Air Quality Standard (NAAQS)

Attention: Docket ID No: EPA-HQ-OAR-2016-0751:

This letter and its attachments provide comments from the State of Delaware on the Environmental Protection Agency's (EPA's) Interstate Ozone Transport Modeling Data for the 2015 Ozone National Ambient Air Quality Standard (NAAQS) (82 FR 1733, January 6, 2017), hereafter referred to as the Transport NODA. The EPA indicates that these data and methods will be used to help states as they develop State Implementation Plans (SIPs) to address cross-state transport of air pollution under the “Good Neighbor” Provision of the Clean Air Act (CAA), section 110(a)(2)(D)(i)(I), as it pertains to the 2015 ozone NAAQS. The State of Delaware appreciates this opportunity to comment.

The Transport NODA only addresses steps 1 and 2 of the four-step CSAPR framework,¹ using preliminary modeling for 2023 to identify projected nonattainment and maintenance receptors and identifying upwind states that contribute to these receptors. EPA notes that states may choose to modify or supplement these data when developing their Good Neighbor SIPs, and/or EPA may update these data for potential future analyses or regulatory actions related to interstate ozone transport for the 2015 ozone NAAQS. As Delaware and many areas within the Ozone Transport Region (OTR) continue to monitor nonattainment of the 2015 ozone NAAQS, it is critical that Good Neighbor requirements for the 2015 ozone NAAQS are addressed on schedule. Unfortunately, the Transport NODA, in its current form, is not technically sound to an extent that

¹ The four-step CSAPR framework is detailed in EPA’s final rule for the Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (81 FR 74504, October 26, 2016).

it should not be considered an acceptable technical underpinning of a Good Neighbor SIP. Many of the deficiencies of the CSAPR Update Rule have unfortunately been repeated in this Transport NODA. Delaware highlights the following issues:

- The modeling performed for this Transport NODA is based upon uncertain future emissions reductions, due to the stayed Clean Power Plan and the CSAPR Update Rule which may be eliminated by a proposed Congressional Review Act disapproval resolution. In addition, there are emission units identified as being retired or reallocated by the IPM model, but such changes are not federally enforceable.
- Only one meteorological scenario was used in the modeling and yet very different outcomes can result based on year-to-year variation in meteorology.
- Identifying areas to be protected by the Good Neighbor provisions of the Clean Air Act based on a 2023 projection year is inconsistent with the requirement for areas to attain as “expeditiously as practicable.” Good Neighbor protections should be afforded to all currently existing non-attainment areas.
- The 2017 transport modeling performed by EPA for the 2008 ozone NAAQS, greatly under-predicted the design values (DV) as can be seen by the preliminary 2016 DV data. Since the modeling platform and assumptions for the 2023 transport modeling for the 2015 ozone NAAQS are similar to the 2017 effort, the expectation is a continuation of under-predicted future design values. Under-prediction will result in a lack of action by the states and sources that significantly impact Delaware.

Despite the issues identified above, this EPA proposal clearly shows significant impact to Delaware from upwind states relative to the new 70 ppb ozone NAAQS. Addressing interstate air pollution transport is a vital issue for Delaware, and Delaware requests that the EPA fulfill its backstop role and require upwind states to comply with 110(a)(2)(D) of the CAA in the timing of the CAA, which is between now and 2020 for the 2015 ozone NAAQS. Delaware believes that upwind Good Neighbor obligations cannot be deemed satisfied if large portions of emissions inventories in a contributing state remain poorly controlled. Delaware believes that any remedy must require at a minimum, RACT on all major NO_x and VOC sources, BACT on all existing EGUs and large industrial boilers, BACT on all sources with high ozone-day emissions, and regional measures that have been recommended by the OTC (AIM, Consumer Products, etc.).

In summary, the EPA methodology used in the Transport NODA is flawed in several significant ways:

- it does not protect all required downwind areas;
- it does not correctly determine what areas are and are not protected by the Good Neighbor obligations of the Clean Air Act;
- it does not comply with the CAA relative to the required content for Good Neighbor SIPs by providing a partial remedy;
- it puts well controlled states at a disadvantage;
- it bases its modeling on a single year of emissions and meteorological conditions, and

- it does not comport with the Clean Air Act requirement that attainment be achieved as “expeditiously as practicable.”

Attachment A discusses these deficiencies in EPA’s methodology in further detail. Attachment B is a technical memorandum prepared by Sonoma Technology Inc regarding the use of 2011 meteorology as the basis for the modeling for the CSAPR Update Rule, as the findings are comparable to the modeling for the Transport NODA.

Delaware appreciates this opportunity to submit these comments, and welcomes discussion on this matter. Please contact me at (302) 739-9402 with questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ali Mirzakhali', with a long horizontal flourish extending to the right.

Ali Mirzakhali, P.E.
Director

cc: Shawn Garvin, Secretary, DNREC
Cristina Fernandez, EPA Region III

Attachments:

A - 2015 Transport NODA - DE Comments
B - STI_Trajectory_Memo_7Oct16

