



May 15, 2017

Administrator Scott Pruitt  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460 (Submitted electronically to the docket at [www.regulations.gov](http://www.regulations.gov))

**Attention: Docket ID No. EPA-HQ-OA-2017-0190; Executive Order to create a Regulatory Reform Task Force to evaluate existing regulations and to identify regulations that should be repealed, replaced, or modified.**

Dear Administrator Pruitt:

Pursuant to the solicitation for input requested during the teleconference of April 24, 2017, and consistent with Executive Order 13777 issued February 24, 2017, the State of Nevada Division of Environmental Protection (NDEP), submits the following comments to the United States Environmental Protection Agency (USEPA) regarding existing Clean Air Act (CAA) regulations that should be modified.

The NDEP appreciates USEPA's willingness to consult with states on these matters. The NDEP requests that USEPA revisit and take into consideration the technical and administrative comments previously submitted by NDEP on CAA regulations. NDEP joins in the comments submitted by the Association of Air Pollution Control Agencies (AAPCA)<sup>1</sup> regarding the *Evaluation of Existing Regulations*. Please find enclosed a list of previously submitted NDEP comments pertaining to several of the air quality regulations in the AAPCA comment letter.

Some specific areas of concern with existing regulations are listed below.

- The 2015 Ozone National Ambient Air Quality Standard may not be achievable in many western locations because it is set at background levels. Significant sources of ozone in these areas are not controllable by the states, with international transport, inter-state transport, western wildfires, and stratospheric intrusion the principal contributors. To avoid burdensome and ineffective designation of non-attainment for these areas, the NDEP suggests that USEPA modify current regulations to account for these conditions during the attainment designation process. Additionally, wherever a non-attainment designation is unavoidable, USEPA should modify regulations to provide appropriate relief for sources in these areas.

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<sup>1</sup> Letter to Docket ID No. EPA-HQ-2017-0190 from the Association of Air Pollution Control Agencies, dated May 15, 2017.

- The use of air pollutant dispersion modeling in lieu of monitoring for National Ambient Air Quality Standard (NAAQS) designation purposes<sup>2</sup> creates an approach that essentially excludes the availability of the ‘unclassifiable’ designation originally and explicitly contemplated in the Clean Air Act for areas with insufficient information. The modeling approach, which is subject to potentially large errors and uncertainty, can lead to additional and unnecessary burden on local industry and businesses. The NDEP requests that EPA refrain from replacing monitoring with modeling in future regulations and guidance for NAAQS designation purposes.
- The Protection of Visibility: Amendments to Requirements for State Plans (Regional Haze Rule) includes outdated and overly stringent requirements for state implementation. During the first Regional Haze State Implementation Plan (SIP) development, EPA established and funded five Regional Planning Organizations (RPOs). RPOs assisted states and tribes with the complex technical and scientific requirements and necessary regional coordination among states, tribes and Federal Land Managers<sup>3</sup> (as required by the Rule). RPOs are not funded in this second SIP development, leaving to states and tribes the substantial burden to secure resources for this Federal mandate.
- The regulations governing stationary compression and spark ignition internal combustion engines covered by the 40 CFR Part 60 Subpart IIII and JJJJ New Source Performance Standards and 40 CFR Part 63 Subpart ZZZZ National Emissions Standards for Hazardous Air Pollutants Rules are overly complicated, confusing, and include references which are recursive. Additionally, these regulations require a significant amount of analysis to determine the correct requirements for owners and operators and include costly requirements for small engines. The NDEP suggests USEPA modify the regulations by explicitly including in the text the language of related subparts, rather than relying on references. Additionally, the NDEP suggests that all regulations regarding emergency engines be modified to allow for maintenance and testing requirements recommended by engine manufacturers.

Nevada recognizes the important partnership that exists with state environmental agencies under the system of cooperative federalism. We look forward to working with USEPA through this constructive process of evaluating and modifying select regulations.

Sincerely,



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 Greg Lovato  
 Administrator, NDEP

cc: Elizabeth Adams, Acting Director of Air Division, USEPA Region 9  
 Colleen McKaughan, Associate Director of Air Division, USEPA Region 9  
 Bradley Crowell, Director, Nevada Department of Conservation and Natural Resources  
 Jeffrey Kinder, Deputy Administrator, NDEP  
 Lisa Kremer, Chief Air Pollution Control, NDEP  
 Danilo Dragoni, Chief Air Pollution Control, NDEP

<sup>2</sup> Data Requirements Rule for the 1-Hour Sulfur Dioxide (SO<sub>2</sub>) Primary National Ambient Air Quality Standard (NAAQS) - USEPA

<sup>3</sup> Evaluation of National Air Quality Regional Planning Organization Program – Final Report. July 7, 2011. USEPA Office of Air and Radiation.

**Attachment: References to NDEP comments submitted in the past 3 years.**

Federal Register Notice	Rule Description	Subject	Docket and Document ID (link to comments)
2017			
81 FR 391894	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements	2/9/2017 NDEP comments on EPA's Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements	<a href="#">EPA-HQ-OAR-2016-0202-0069</a>
81 FR 391894	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements	2/13/2017 WESTAR comments on EPA's Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements	<a href="#">EPA-HQ-OAR-2016-0202-0080</a>
2016			
80 FR 64966	Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations	1/21/2016 NDEP comments on EPA's Final Clean Power Plan Federal Plan Model Trading Rules	<a href="#">EPA-HQ-OAR-2015-0199-0393</a>
NA	Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM2.5 & Regional Haze	3/12/2016 NDEP comments on Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM2.5 & Regional Haze	submitted to Brian Timin, USEPA, AQMG
NA	Implementation of the 2015 Primary Ozone NAAQS: Issues Associated with Background Ozone	5/11/2016 WESTAR comments on EPA's Implementation of the 2015 Primary Ozone NAAQS: Issues Associated with Background Ozone White Paper for Discussion	<a href="#">EPA-HQ-OAR-2016-0097-0034</a>
81 FR 26942	Protection of Visibility. Amendments to Requirements for State Plans	8/10/2016 NDEP comments on EPA's Protection of Visibility. Amendments to Requirements for State Plans	<a href="#">EPA-HQ-OAR-2015-0531-0407</a>
81 FR 26942	Protection of Visibility: Amendments to Requirements for State Plans	8/10/2016 WESTAR comments on EPA's Protection of Visibility: Amendments to Requirements for State Plans	<a href="#">EPA-HQ-OAR-2015-0531-0476</a>
81 FR 38645	Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program	8/15/2016 NDEP comments on the Removal of Title V Emergency Affirmative Defense Provisions from State Operating Permit Programs & Federal Operating Permit Program	<a href="#">EPA-HQ-OAR-2016-0186-0018</a>
81 FR 44608	Draft Guidance on Progress Tracking Metrics, Long-term Strategies, Reasonable Progress Goals and Other Requirements for Regional Haze State Implementation Plans for the Second Implementation Period	8/16/2016 NDEP comments on EPA's Draft Guidance on Progress Tracking Metrics, Long-term Strategies, Reasonable Progress Goals and Other Requirements for Regional Haze State Implementation Plans for the Second Implementation Period	<a href="#">EPA-HQ-OAR-2016-0289-0035</a>
81 FR 44608	Draft Guidance on Progress Tracking Metrics, Long-term Strategies, Reasonable Progress Goals and Other Requirements for Regional Haze State Implementation Plans for the Second Implementation Period	8/22/2016 WESTAR comments on EPA's Draft Guidance on Progress Tracking Metrics, Long-term Strategies, Reasonable Progress Goals and Other Requirements for Regional Haze State Implementation Plans for the Second Implementation Period	<a href="#">EPA-HQ-OAR-2016-0289-0057</a>
81 FR 57822	Revisions to the Petition Provisions of the Title V Permitting Program	10/24/2016 NDEP comments on the Revisions to the Petition Provision of the Title V Permitting Program	<a href="#">EPA-HQ-OAR-2016-0194-0015</a>
2015			
79 FR 75234	National Ambient Air Quality Standards for Ozone	3/12/2015 NDEP comments on National Ambient Air Quality Standards for Ozone	<a href="#">EPA-HQ-OAR-2008-0699-1741</a>

79 FR 75234	National Ambient Air Quality Standards for Ozone	3/16/2015 WESTAR comments on National Ambient Air Quality Standards for Ozone	<a href="#">EPA-HQ-OAR-2008-0699-1990</a>
64 FR 35714	Regional Haze Regulations	3/26/2015 WESTAR comments on Revising the Regional Haze Rule and Guidance	<a href="#">Comment Letter</a>
80 FR 3962	E-Enterprise for the Environmental Portal	4/22/2015 NDEP comments on USEPA's E-Enterprise for the Environmental Portal	<a href="#">EPA-HQ-OEI-2015-0039-0007</a>
80 FR 45340	Revisions to the Guideline on Air Quality Models: Enhancement to the AERMOD Dispersion Modeling System and Incorporation of Approches to Address Ozone and Fine Particulate Matter	10/16/2015 NDEP comments on USEPA's Proposed Rule Regarding AERMOD	<a href="#">EPA-HQ-OAR-2015-0310-0080</a>
64 FR 35714	Regional Haze Regulations	11/16/2015 WESTAR comments on Revising the Regional Haze Rule and Guidance	<a href="#">Comment Letter</a>
NA	Posting EPA-HQ-OAR-2015 -0734 to Regulations.gov for Public Access	12/15/2015 NDEP comments on voluntary Clean Energy Incentive Program (part of the Clean Power Plan)	<a href="#">EPA-HQ-OAR-2015-0734-0073</a>
2014			
78 FR 70935	Notice of Availability of the Environmental Protection Agency's 2011 Emissions Modeling Platform	3/31/2014 NDEP comments on EPA's 2011 NEI emissions modeling platform (for use in ozone transport modeling and more)	<a href="#">EPA-HQ-OAR-2013-0743-0047</a>
78 FR 70935	Notice of Availability of the Environmental Protection Agency's 2011 Emissions Modeling Platform	4/9/2014 WESTAR comments on EPA's 2011 and 2018 Modeling Platforms	<a href="#">Comment Letter</a>
79 FR 6330	Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters	5/1/2014 WESTAR comments on Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters	<a href="#">EPA-HQ-OAR-2009-0734-1423</a>
79 FR 1430	Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units	5/9/2014 NDEP comments on EPA's proposed rule to regulate GHG (CO2) emissions from new EGUs	<a href="#">EPA-HQ-OAR-2013-0495-10105</a>
78 FR 70935	Notice of Availability of the Environmental Protection Agency's 2011 Emissions Modeling Platform	6/11/2014 WESTAR comments on EPA's	<a href="#">Comment Letter</a>
79 FR 31325	Proposed Consent Decree, Clean Air Act Citizen Suit	7/2/2014 NDEP Comments on SO <sub>2</sub> Consent Decree	<a href="#">EPA-HQ-OGC-2014-0421-0026</a>
79 FR 27446	Data Requirements Rule for the 1-Hour Sulfur Dioxide (SO <sub>2</sub> ) Primary National Ambient Air Quality Standard (NAAQS)	7/14/2014 NDEP Comments on SO <sub>2</sub> Data Requirements Rule	<a href="#">EPA-HQ-OAR-2013-0711-0089</a>
79 FR 34960	Carbon Pollution Emission Guidelines for Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units	10/16/2014 NDEP Comments on the 111(b) Modified Reconstruction Rule	<a href="#">EPA-HQ-OAR-2013-0603-0258</a>
79 FR 54356	Revisions to Ambient Monitoring Quality Assurance and Other Requirements	11/10/2014 NDEP Comments on USEPA's Revisions to Ambient Monitoring Quality Assurance and Other Requirements	<a href="#">EPA-HQ-OAR-2013-0619-0029</a>
79 FR 34830	Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units	11/24/2014 NDEP Comments on the Clean Power Plan	<a href="#">EPA-HQ-OAR-2013-0602-22723</a>