AQD EXHIBIT 36

Butt, Neal T.

From: Butt, Neal T.
Sent: Tuesday, May 04, 2010 2:28 PM
To: 'Donaldson.Guy@epamail.epa.gov'; Young.Carl@epamail.epa.gov; Penland.Catherine@epamail.epa.gov; Robinson.Jeffrey@epamail.epa.gov
Cc: Shar.Alan@epamail.epa.gov; Nieto, Margaret ; Wright, Janice C.; Leonard, Mary Lou ; Munoz-Romero, Darleen
Subject: RE: EPA Comments on Draft Revisions to the PSD and NNSR Rules and the Draft Infrastructure SIP for Ozone and PM2.5
Follow Up Flag: Follow up
Flag Status: Purple
Attachments: Filed 20_11_61 NMAC PRD 4-27-10.pdf; Filed Infrastructure SIP PRD 4-27-10.pdf; Filed 20_11_60 NMAC PRD 4-27-10.pdf; AQD Response to EPA Comments re PSD NNSR Infrastructure SIP.pdf

Guy, Jeff, Cathy, Carl,

Thank you for the comments on our proposed rules. The Division's responses are attached, as are the revised drafts (hard copy to follow). Please review and comment by July 14, 2010.

Thank you

Neal

"Receive with simplicity everything that happens to you."
- Rashi

From: Donaldson.Guy@epamail.epa.gov [mailto:Donaldson.Guy@epamail.epa.gov]
Sent: Monday, April 19, 2010 2:23 PM
To: Butt, Neal T.
Cc: Robinson.Jeffrey@epamail.epa.gov; Penland.Catherine@epamail.epa.gov; Young.Carl@epamail.epa.gov; Shar.Alan@epamail.epa.gov
Subject: EPA Comments on Draft Revisions to the PSD and NNSR Rules and the Draft Infrastructure SIP for Ozone and PM2.5

Neal,

Thank you for the opportunity to comment on the draft revisions to the PSD and NNSR rules and the draft Infrastructure SIP for Ozone and PM2.5. We really appreciate your continued efforts to meet these Clean Air Act requirements. Attached please find our comments on the draft documents.

CITY OF ALBUQUERQUE

May 4, 2010

Guy Donaldson
Section Chief, Air Planning Section
EPA Region 6, (6PD-L)
1445 Ross Ave.
Dallas, TX 75202-2733

Re: EPA Region 6 Comments on the Albuquerque Air Quality Division Draft Revisions to the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Rules and the Draft Infrastructure State Implementation Plan (SIP) for Ozone and Fine Particulate Matter ($PM_{2.5}$)

Dear Guy

Thank you and your colleagues for the comments on our proposed rules. We have attempted to address your concerns in revised Public Review Drafts (PRD) [enclosed]. A point-by-point discussion of your comments and the Division's responses are also enclosed. The Air Quality Division will propose the revised drafts to the Air Board on July 14, 2010. Therefore, the Air Quality Division respectfully requests that EPA review the revised drafts and provide comments by June 14, 2010.

Sincerely,

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department

PO Box 1293
Albuquerque
NM 87103
www.cabq.gov

cc: Jeff Robinson, Section Chief, Air Permits Section
Catherine Penland, NM & Tribal Air Permits Coordinator, Air Permits Section
Alan Shar, SIP Coordinator, Air Planning Section
Carl Young, Air Planning Section
Margaret Nieto, Control Strategies Supervisor, Air Quality Division
Mary Lou Leonard, Director, Environmental Health Department

Air Quality Division Responses to EPA Comments Regarding Infrastructure SIP, NNSR and PSD.

EPA:

"Revisions to the PSD and NNSR Rules

We support revising the PSD and NNSR rules for ozone as discussed below. We suggest that the Division focus on these revisions dealing with nitrogen oxides (NOx) as a precursor for ozone. We suggest you move forward on other PSD and NNSR revisions including PM2.5 revisions at a later date when there is more regulatory certainty on implementation."

AQD:

The Division has incorporated all of the changes proscribed by the 2005 Federal Register addressing NOx as a precursor for ozone. In addition, we have tried to modify the proposed amendments in order to limit the amount of language originally proposed to incorporate recent rule changes made by EPA, which are currently in a state of flux.

EPA:

"1997 and 2008 NAAQS for Ozone

Just a clarification for the first paragraph: On April 30, 2004 EPA finalized designations for the 1997 ozone standard (69 FR 23858) and issued the first of its implementation regulations for the 8-hour ozone standard (69 FR 23951)."

AQD:

The Division has incorporated clarifying language into the PRD.

EPA:

"Elements of § 110(a)(2) (Infrastructure SIP Elements)

<u>§110(a)(2)(C) Enforcement and Stationary Source Permitting</u>

We recommend that a statement be added that the SIP is being revised to address the NOx as an ozone precursor requirements found in phase 2 implementation rule for the 1997 ozone NAAQS (November 29, 2005 Federal Register, 70 FR 71612)."

AQD:

The Division has incorporated clarifying language into the PRD.

EPA:

"We support the PSD regulations (20.11.61 NMAC) including:

- NOx as a precursor for ozone;
- requiring net emissions increase or potential to emit, a rate of emissions that equals or exceeds 40 tons per year of NOx to be considered significant (40 CFR 51.166(b)(23)); and
- stating that any net emissions increase of 100 tons per year of NOx subject to PSD would require an ambient impact analysis, including the gathering of air quality data (40 CFR 51.166(i)(5)(i)(e))."

AQD:

The Division interprets this comment as a confirmation of appropriate revisions to address these issues, and therefore has not made additional changes to address these points.

EPA:

"We support revising the NNSR regulations (20.11.60 NMAC) to address NOx as a precursor for ozone. These regulations should also ensure appropriate emission offsets for NOx."

AQD:

The Division interprets this comment as a confirmation of appropriate revisions to address these issues, and therefore has not made additional changes to address these points.

EPA:

"<u>§110(a)(2)(E) Resources, Conflict of Interest, and Emergency Backstop</u>

We recommend that this section focus more on the Division having adequate resources and authority for implementing the SIP for the NAAQS. Specifically, we request a statement that the Division assures EPA that it will have adequate personnel, funding and authority to carry out the SIP and is not prohibited by any provision of law from carrying out the SIP."

AQD:

The Division has removed language in this section in order to sharpen the focus on its ability to enforce the NAAQS for $PM_{2.5}$ and ozone.

EPA:

"On June 1, 1999 we approved City of Albuquerque ordinances to address Clean Air Act section 128 requirements on representing the public and conflicts of interest (CAA 110(a)(2)(E)(ii)). We request a statement that the ordinances approved in 1999 are still in effect. (Alternatively, revisions to the ordinances could be submitted as a revision to the SIP)."

AQD:

These ordinances are still in effect and have not been revised since 1999.

EPA:

"§110(a)(2)(F) Stationary Source Emissions Monitoring and Reporting

We request a statement clarifying that 20.11.42 NMAC, Operating Permits is not part of the SIP, but has been submitted to EPA for approval under Title V of the Clean Air Act."

AQD:

The Division has incorporated clarifying language into the PRD.

EPA:

"§110(a)(2)(G) Emergency Powers and Contingency Plans

We recognize our approval of the Air Pollution Episode Contingency Plan for Bernalillo County (40 CFR 52.1639(b)). If appropriate, please include a statement that the area has not monitored $PM_{2.5}$ levels greater than 140.4 ug/m3 since 2006. (EPA guidance of September 25, 2009 states that if this level is not exceeded no specific emergency episode plans for PM2.5 are necessary at this time)."

AQD:

The Air Quality Division has not monitored any 24-hour levels of $PM_{2.5}$ greater than 140.4μg/m^3 since 2006, therefore no update to the contingency plan for Bernalillo County is required at this time. In addition, the Division has incorporated clarifying language into the PRD.

EPA:

"<u>§110(a)(2)(H) SIP Revision for Revised Air Quality Standards or New Attainment Methods</u>

We appreciate the Division's commitment to revise the SIP as appropriate. We recommend that the narrative be updated to reflect that revisions to the Federal General Conformity rule were published in the April 5, 2010 Federal Register (75 FR 17254)."

AQD:

The Division has incorporated updated language into the PRD.

EPA:

"<u>§110(a)(2)(J) Consultation and Public Notification</u>

We appreciate the Division's commitment to consultation, public notification and prevention of significant deterioration. Even though it is discussed earlier, we request that the Division briefly discuss its commitment to visibility protection though development and submittal of the regional haze SIP submitted to EPA on September 5, 2008."

AQD:

The Division has incorporated clarifying language into the PRD.

EPA:

"<u>§110(a)(2)(L) Major Stationary Source Permitting Fees</u>

Please include a statement that the major stationary source permitting fee requirements of 110(a)(2)(L) are implemented through 20.11.2 NMAC (Fees). Also, we found reference to an "additional fee" confusing. Is the additional fee associated with annual fees required under 20.11.2 NMAC?"

AQD:

The Division has incorporated clarifying language into the PRD.