UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region8

Ref: 8P-AR

JUL 11 2018

Garry Kaufman, Director
Air Pollution Control Division
Colorado Department of Public Health
and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Dear Mr. Kaufman:

This letter responds to the Colorado Department of Public Health and Environment's (CDPHE) June 4, 2018 submittal requesting that the U.S. Environmental Protection Agency (EPA) concur with the CDPHE request to exclude ozone data influenced by wildfire exceptional events in September 2017. The CDPHE determined that regional wildfire smoke events caused exceedances of the 2008 ozone National Ambient Air Quality Standard (NAAQS) at several monitors in the Denver ozone nonattainment area on September 2 and 4, 2017, and also had impacts on data from monitors that were lower than the ozone NAAQS.

After careful consideration of the information provided by the CDPHE, the EPA concurs, based on the weight of evidence, that the state has made the demonstrations referred to in 40 CFR 50.14(a)(2), (b)(1) and (b)(4). In addition, the state has met the schedule and procedural requirements in section 50.14(c) with respect to the same information. Therefore, the EPA agrees with the CDPHE that the exceedances at the National Renewable Energy Laboratory (NREL) monitor on September 2 and 4, 2017, meet the criteria for an exceptional event in the Exceptional Events Rule (EER). The basis for our concurrence is set forth in the enclosed technical support document. My staff has entered or shortly will enter "concurrence flags" for these data into the EPA's Air Quality System data repository.

In 2016, the EPA revised the EER in sections 50.14 and 51.930 of 40 CFR parts 50 and 51. *See* "Treatment of Data Influenced by Exceptional Events," 81 FR 68216 (Oct. 3, 2016). The 2016 rule revisions at 40 CFR 50.14(a)(1)(i) limit the applicability of the EER to NAAQS exceedances or violations that have relevance to specific regulatory determinations by the EPA, or otherwise as approved by the EPA administrator on a case-by-case basis. The 8-hour ozone concentrations measured at the Aurora East, Chatfield, Highland Reservoir, La Casa, Rocky Flats North, and Welch monitors on September 2, and at the Aspen Park, Aurora East, CAMP, Chatfield, Highland Reservoir, La Casa, Rocky Flats North and Welch monitors on September 4, do not currently have regulatory significance and therefore have not been reviewed. The EPA will retain the CDPHE demonstration for future consideration should any of the data on which the EPA is not acting become significant for a future regulatory action.

The EPA's concurrence is a preliminary step in the regulatory process for actions that may rely on the dataset containing the event-influenced data and does not constitute final agency action. If the EPA takes a regulatory action that is affected by exclusion of the 2008 ozone NAAQS data for the September 2 and 4, 2017 events at the NREL monitor, the EPA intends to publish notice of its proposed action in the Federal Register. This concurrence letter and accompanying technical support document will be included in the record as part of the technical basis for that proposal. When the EPA issues that regulatory action, it will be a final agency action subject to judicial review.

If you have any questions or wish to discuss this matter further, you may contact Monica Morales, Air Program Director, at (303) 312-6936.

Sincerely,

Martin Hestmark
Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

Enclosure