UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Tommy Wells, Director
Department of Energy & Environment (DOEE)
1200 First Street NE
Washington, D.C. 20002

Dear Mr. Wells:

Thank you for your October 7, 2021 request for U.S. Environmental Protection Agency (EPA) to exclude ozone data in the District of Columbia from March 16 through December 31, 2020 from certain regulatory decisions, pursuant to the Exceptional Events Rule. After careful consideration, EPA finds that exclusion of the associated data would be inappropriate under the Exceptional Events Rule.

EPA's response to the District's request is governed by Section 319(b) of the Clean Air Act (CAA) and the "Treatment of Data Influenced by Exceptional Events" rule. *See* 81 FR 68216 (October 3, 2016). The CAA directed EPA to promulgate regulations establishing criteria and procedures for a state to petition EPA to exclude "exceedances or violations of the national ambient air quality standards" from use in EPA determinations. *See* CAA section 319(b)(3)(B)(iv). The Exceptional Events Rule is consistent with this statutory directive. The 40 CFR 50.1(j) defines an exceptional event as, "...an event(s) and its resulting emissions that affect air quality in such a way that there exists a clear causal relationship between the specific event(s) *and the monitoring exceedance(s) or violation(s)* [emphasis added], is not reasonably controllable or preventable, in an event(s) caused by human activity that unlikely to recur at a particular location or a natural event(s), and is determined by the Administrator in accordance with 40 CFR 50.14 to be an exceptional event."

Event-influenced data that do not result in an exceedance or violation of the national ambient air quality standards (NAAQS) are not eligible for exclusion under the Exceptional Events Rule. This question of whether event-influenced data that do not result in an exceedance or violation are eligible for exclusion under the Exceptional Events Rule was previously raised in the response to comments for the final rule. As stated there, "EPA's decision to not apply the Exceptional Events Rule to data that does not exceed or violate a NAAQS is consistent with how the rule has been applied and interpreted and is not inconsistent with CAA section 319(b)." 81 FR 68216, 68230.

As demonstrated, event-influenced data that can be excluded under the Exceptional Events Rule must result in a violation or exceedance. Here, the event that the District is requesting data exclusion for is abnormal data resulting from the Covid-19 pandemic. This data did not result in an exceedance(s) or violation(s) of the ozone NAAQS. As such, EPA cannot grant exclusion of the March 16 through December 31, 2020 ozone data as requested by the District.

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For questions regarding this response, your staff may contact Cristina Fernández, Director of the Air & Radiation Division, at 215-814-2178 or via e-mail at fernandez.cristina@epa.gov.

Sincerely,

Diana Esher
Deputy Regional Administrator

cc: Cristina Fernández, Air & Radiation Division, EPA Region III
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