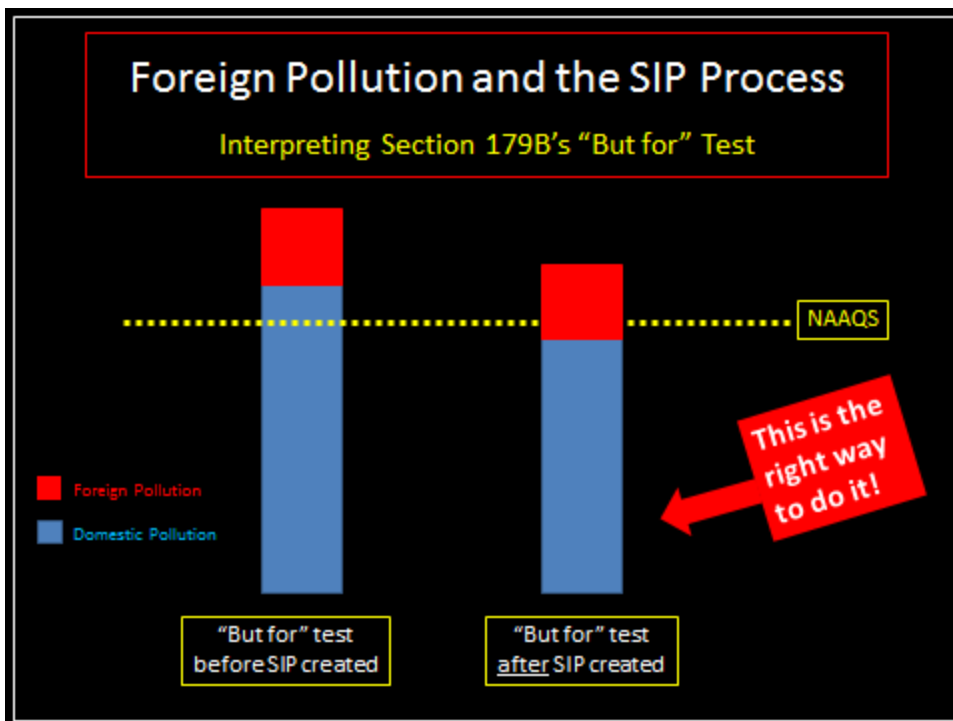


# “You can Always Shoot the Cow”: Why a Strict ‘but for’ Interpretation of Section 179B would be Nonsensical

Originally written: August 21, 2014 · Published here: May 12, 2026



For some reason States seem to think that Section 179B is a strict “but for” demonstration. In other words, that foreign pollution is inconsequential unless it’s the only reason why the State is in nonattainment.

Can’t be. If this were the case—then even if there were no more emissions sources in a State other than one cow that was keeping the area in nonattainment, EPA could say, “**well you could have shot the cow**”. ‘But for’ the cow the area would be in attainment.

Section 179B says it's a "but for" test after the new implementation plan is created—not before the implementation plan is created (see below). Section 179B doesn't say that the old SIP "is" adequate but for foreign pollution, but that the new SIP "would be" adequate but for foreign pollution. EPA and Congressional statements support this statutory language (see below).

Time to do this the right way. Time for States to stop making their own businesses and citizens responsible for offsetting foreign pollution under the SIP process.

The world is changing. We must change with it. Time to transform the SIP process. We can make it happen.

**U.S. Code** (<http://www.law.cornell.edu/uscode/text>) > **Title 42** (<http://www.law.cornell.edu/uscode/text/42>) > **Chapter 85** (<http://www.law.cornell.edu/uscode/text/42/chapter-85>) > **Subchapter I** (<http://www.law.cornell.edu/uscode/text/42/chapter-85/subchapter-I>) > **Part D** (<http://www.law.cornell.edu/uscode/text/42/chapter-85/subchapter-I/part-D>) > **Subpart 1** (<http://www.law.cornell.edu/uscode/text/42/chapter-85/subchapter-I/part-D/subpart-1>) > § 7509a **(a) Implementation plans and revisions** *Notwithstanding any other provision of law, an implementation plan or plan revision required under this chapter shall be approved by the Administrator if— (1) such plan or revision meets all the requirements applicable to it under the chapter other than a requirement that such plan or revision demonstrate attainment and maintenance of the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this chapter, or in a regulation promulgated under such provision, and (2) the submitting State establishes to the satisfaction of the Administrator that the implementation plan of such State **would be adequate** to attain and maintain the relevant national ambient air quality*

*standards by the attainment date specified under the applicable provision of this chapter, or in a regulation promulgated under such provision, but for emissions emanating from outside of the United States.*

## **EPA Statements on Foreign Pollution**

- “The EPA does not expect States to restrict emissions from domestic sources to offset the impacts of international transport of pollution.” —U.S. EPA (64 Fed. Reg. 35714)
- “[T]he EPA will not hold States responsible for developing strategies to “compensate” for the effects of emissions from foreign sources”. —U.S. EPA (64 Fed. Reg. 35714).
- “Congress clearly wanted to avoid penalizing such areas by not making them responsible for control of emissions emanating from a foreign country over which they have no jurisdiction.” —U.S. EPA (see [http://www.epa.gov/ttncaaa1/t1/fr\\_notices/pm-add.pdf](http://www.epa.gov/ttncaaa1/t1/fr_notices/pm-add.pdf) ([http://www.epa.gov/ttncaaa1/t1/fr\\_notices/pm-add.pdf](http://www.epa.gov/ttncaaa1/t1/fr_notices/pm-add.pdf)))

---

Licensed [CC-BY-4.0](https://creativecommons.org/licenses/by/4.0/) (<https://creativecommons.org/licenses/by/4.0/>).

Original source: <https://sipreform.wordpress.com/2014/08/21/you-can-always-shoot-the-cow-why-a-strict-but-for-interpretation-of-section-179b-is-nonsensical/> (August 20, 2014)

Markdown source: <https://jedanderson.org/posts/you-can-always-shoot-the-cow-why-a-strict-but-for-interpretation-of-section-179b-is-nonsensical.md> (<https://jedanderson.org/posts/you-can-always-shoot-the-cow-why-a-strict-but-for-interpretation-of-section-179b-is-nonsensical.md>)

Source on GitHub: [/src/content/posts/you-can-always-shoot-the-cow-why-a-strict-but-for-interpretation-of-section-179b-is-nonsensical.md](https://github.com/jedanderson432/jedanderson-site/blob/main/src/content/posts/you-can-always-shoot-the-cow-why-a-strict-but-for-interpretation-of-section-179b-is-nonsensical.md) (<https://github.com/jedanderson432/jedanderson-site/blob/main/src/content/posts/you-can-always-shoot-the-cow-why-a-strict-but-for-interpretation-of-section-179b-is-nonsensical.md>)