



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION DIVISION OF AIR QUALITY & RADIATION PROTECTION

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May 31, 2024

Richard Ruvo, Director
Air and Radiation Division
United States Environmental Protection Agency - Region 2
290 Broadway – 25th Floor
New York, NY 10007-1866

RE: Commitment to an Alternative to New Jersey's NO_x State Implementation Plan (SIP) Call Gap under 40 CFR 51.121(r)(2)

Dear Director Ruvo:

This letter is an update to my March 7, 2024, letter and serves to make a re-commitment by the New Jersey Department of Environmental Protection (NJDEP) for an alternative approach to address New Jersey's NO_x SIP Call gap under 40 CFR 51.121(r)(2) and would obviate the need for additional state rulemaking. The update of the letter is required as the U.S. Environmental Protection Agency (USEPA) modified the underlying list of covered facilities and the associated budgets. As stated before, this alternative would include a Memorandum of Agreement (MOA) between the USEPA and the NJDEP that outlines how NJDEP will comply with the NO_x SIP Call, specifically for non-electric generating units (non-EGUs) that were previously regulated by the New Jersey NO_x Budget Program (NBP) and were not included in the subsequent Federal Clean Air Interstate Rule (CAIR). For purposes of Clean Air Act section 110(k)(4), NJDEP commits to submitting this MOA to the USEPA by no later than March 7, 2025; it is our understanding that the USEPA will approve the MOA as an enforceable SIP revision by no later than one year from the date the USEPA conditionally approves the NJ SIP Revision – Removal of CAIR and NO_x Budget Programs submitted on August 23, 2018.

On June 19, 2007, New Jersey adopted rules requiring New Jersey Electric Generating Units (EGUs) to participate in the cap-and-trade program regulated under the Federal CAIR but excluded non-EGU industrial units from its rulemaking. Under both the NBP and CAIR program, the affected units were required to monitor pursuant to 40 CFR part 75. The EGUs that

remained in the cap-and-trade program continued to comply with the monitoring requirements. However, the non-EGUs no longer in the cap-and-trade program did not retain that monitoring requirement, and instead, relied on emission statement reporting and emissions limits in the New Jersey NOx RACT rules (7:27 Subchapter19) and the associated air permits to continue to meet the budget set under the NBP for non-EGUs. The MOA will serve to memorialize an aggregate state-wide budget for the affected non-EGU units and the reporting requirements of the former NBP through official annual ozone season NOx reporting to the USEPA.

The MOA will specify how the emission limits and monitoring, recordkeeping, and reporting requirements on sources contained in the SIP are sufficient to meet the NOx SIP Call requirements on sources. The MOA will specify that NOx tonnage will be determined from non-EGUs during the ozone season via stack testing already required pursuant to N.J.A.C. 7:27-19.17 and reported via NJ's Emission Statement Program (7:27-21). The stack testing frequency, which is specified in the operating permit, shall be no more than every 5 years. Specifically, the MOA would specify that the non-EGUs subject to the MOA are existing and new fossil fuel-fired boilers and combustion turbines with maximum design heat input greater than 250 MMBtu/hr., except electricity generating units required to participate in the CSAPR NOx Ozone Season Group 3 Trading Program (40 CFR part 97, subpart GGGGG) or a successor trading program for seasonal NOx emissions. The MOA would specify that the non-EGU emissions budget for the affected units' aggregated emissions will not exceed 745 tons per ozone season (May 1 – September 30 of each year).

The MOA will include a public comment period and will be submitted as a SIP revision to EPA. Once executed, the USEPA and the NJDEP will have authority to enforce the conditions in the MOA and corresponding authorities and will establish the mechanism by which New Jersey will report to EPA consistent with its own obligations under the NOx SIP Call, and to ensure compliance with the budget per 51.121(r).

This letter is NJDEP's commitment to enter an MOA with USEPA to fully comply with the NOx SIP Call and the procedures spelled out in the MOA. If you have any technical questions regarding this request, please contact me at (609) 940-5707 or francis.steitz@dep.nj.gov.

Sincerely,

Francis C. Steitz, Director

cc: Paul Baldauf, Assistant Commissioner, Air Quality, Energy, & Sustainability
Kenneth Ratzman, Assistant Director, Air Quality Regulation, Planning and Release Prevention

