



May 15, 2017

United States Environmental Protection Agency
Docket ID No. EPA-HQ-OA-2017-0190

Re: Evaluation of Existing Regulations, 82 FR 17793, April 13, 2017

To Whom It May Concern:

Thank you for the opportunity to provide comments on existing regulations, in accordance with Executive Order 13777, to solicit input on specific regulations that could be repealed, replaced, or modified to make them less burdensome. The South Carolina Department of Health and Environmental Control (Department) appreciates this rare opportunity to comment on virtually any existing air regulation, and would like to offer the following comments relevant to this topic:

1. NO_x SIP Call. The Department would like the EPA to consider withdrawing the Nitrogen Oxides State Implementation Plan Call or "NO_x SIP Call," published in the Federal Register (63 FR 57356) on October 27, 1998. This rule required specific states identified as contributing significantly to ozone levels in other states, to amend their State Implementation Plans (SIPs), to reduce regional transport of ozone and the ozone precursor, NO_x, across state boundaries in the eastern half of the U.S. The NO_x Budget Trading Program was developed as a cap and trade emissions trading program, requiring reductions from both commercial Electric Generating Units (EGUs) of more than 25 MWe capacity, and large non-EGU fossil-fuel boilers of heat input exceeding 250 million BTU/hour. This rule was developed to address the 1997 Ozone National Ambient Air Quality Standards (NAAQS), which has since been revoked and superseded by the 2008 and 2015 Ozone NAAQS.

South Carolina's NO_x SIP Call state budget for large non-EGUs is 3,479 tons. According to the state's 2015 option 1 compliance demonstration, the maximum combined ozone-season emission of the eleven applicable units is 2,399 tons, which is well below the budget. However, the NO_x SIP Call requires individual units be monitored in accordance with 40 CFR Part 75, rather than the less onerous requirements in 40 CFR Part 60. Considering their low emissions level relative to the budget, our industrial stakeholders object to the expense of 40 CFR Part 75 monitoring. 40 CFR Part 75 requires installation of a continuous emissions monitoring system (CEMS), and monitoring methods that have requirements significantly more costly than monitoring under 40 CFR Part 60. The

Department believes that where trading and associated data substitutions are no longer required, properly permitted facilities should be allowed to utilize the more appropriate 40 CFR Part 60 emissions monitoring. Removal of 40 CFR Part 75 monitoring requirements would not interfere with attainment or maintenance in downwind states. This is an additional burden that results in no environmental benefit.

On March 10, 2005, the EPA promulgated the Clean Air Interstate Rule (CAIR), a NO_x and SO₂ emissions trading program that included both EGUs and non-EGUs, and addressed interstate transport under both the 1997 8-hour ozone and PM_{2.5} NAAQS. The CAIR ozone-season NO_x Trading Program served as a replacement to the NO_x SIP Call. Following considerable litigation in the Federal courts, the EPA ultimately replaced CAIR with the Cross-State Air Pollution Rule (CSAPR), promulgated August 8, 2011 (76 FR 48208), but finally taking effect January 1, 2015. CSAPR, however, applied only to the EGUs, leaving the non-EGUs to once again fall under the regulatory authority of the obsolete NO_x SIP Call, which had been replaced by CAIR, but was never revoked.

In the preamble to the CSAPR rule, the EPA indicated that it did not include non-EGUs in the trading program due to their data not showing any reduction in emissions by including non-EGUs. As a result, although the non-EGUs are not required to reduce their emissions under CSAPR, the EPA applies the anti-backsliding provisions of 40 CFR 51.905(f) to require these sources to comply again with the NO_x SIP Call requirements, including budgets and rigorous monitoring requirements. The CSAPR Update rule for the 2008 Ozone NAAQS, promulgated on October 26, 2016 (81 FR 74504), exempted South Carolina, since the EPA's air quality modeling of ozone season NO_x emissions demonstrated no significant downwind contribution to nonattainment or maintenance of ozone.

The Department would like the EPA to repeal the NO_x SIP Call. At minimum, consider allowing an exemption for states where emissions are far under budget such as SC, or replace 40 CFR Part 75 monitoring with 40 CFR Part 60 monitoring requirements for those large non-EGUs operating in states well below the budget. States should be given the freedom to address their downwind obligations to meet their CSAPR budget limits with tailor-made solutions each state designs to fit their needs.

2. Title V Applicability for Area Sources. The Department would like the EPA to consider modifying the regulations that require area sources to obtain and maintain a Title V operating permit as required in 40 CFR 70.3(a)(2) and (3). This is a costly burden for area sources that does not result in environmental benefit. There are source category exemptions allowed under 40 CFR 70.3(b)(2)(1) and (2) for non-major sources. For example, the Department would like the EPA to expand this opportunity to include air curtain incinerators (ACI) and municipal solid waste (MSW) landfills. The Department submitted the following comment for the proposed 40 CFR Part 60 Standards of

Performance for New Stationary Sources and Emission Guidelines for Existing Sources:
Commercial and Industrial Solid Waste Incineration Units (CISWI):

The proposed rule contains only two requirements for ACI units: 1-meet a 10% opacity limit (35%) during a 30 minute start-up period) and 2-monitor that opacity limit through performing a Method 9 test on an annual basis. Requiring an ACI unit to obtain a Title V permit merely to comply with an opacity requirement is overly burdensome to permitting agencies, who have been struggling to best use their resources in light of recent budget cuts. In addition, the majority of ACI units operating in South Carolina are owned and operated by small businesses. The requirement to submit a Title V permit application would be costly to them, especially considering there are no substantive requirements in comparison to other units subject to CISWI. South Carolina proposes that the EPA allow permitting agencies flexibility in addressing the ACI opacity limitation. This opacity requirement can be addressed through minor source permits, federally enforceable state operating permits, registration permits, or Title V general permits. These options will allow each permitting agency to permit the ACI units according to their own permitting options.

The EPA responded in the final CISWI rule “[b]ecause we think it is important to treat all air curtain incinerators in the same manner, we decline to consider a Title V exemption for minor and area source air curtain incinerators at commercial and industrial facilities.” The Department respectfully disagrees with this response because there are other permitting options available, as listed in the comment above.

In addition, the Department would like the EPA to exercise the exemption option for landfills. The Title V requirement is included in 40 CFR Part 60, Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills and Subpart XXX, Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014. 40 CFR Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills requires applicable MSW landfills to comply with 40 CFR Part 60, Subpart WWW. There are no additional requirements outside of the requirements in 40 CFR Part 60, Subparts WWW and XXX and 40 CFR Part 63, Subpart AAAA in the Title V operating permits. As with the ACI, the regulatory requirements for MSW landfills can be addressed through minor source permits, federally enforceable state operating permits, registration permits, or Title V general permits. These options will allow each permitting agency to permit the ACI units according to their own permitting options.

Thank you again for the opportunity to comment on existing air regulations, specifically the NO_x SIP Call, and Title V applicability for area sources. If you have questions or need

further information, please contact Robert J. Brown of my staff by telephone at (803) 898-4105 or e-mail at brownrj@dhec.sc.gov.

Respectfully,

A handwritten signature in blue ink, appearing to read "Rhonda B. Thompson".

Rhonda B. Thompson, P.E., Chief
Bureau of Air Quality

cc: Ms. Beverly Banister, Director, Air, Pesticides and Toxics Management Division, EPA
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