

March 3, 2015

Re: *Compliance Expectations for Clean Air Interstate Rule Sources*

Dear Owner or Operator of a Connecticut Clean Air Interstate Rule Facility:

I am writing to you to clarify the continued implementation of some provisions of Connecticut's Clean Air Interstate Rule (CAIR) nitrogen oxides (NOx) trading program given the January 1, 2015 implementation of the federal Cross-State Air Pollution Rule (CSAPR).

Connecticut is not subject to the CSAPR program. However, under the federal Clean Air Act and the Connecticut State Implementation Plan, the Department of Energy and Environmental Protection (DEEP) is not permitted to backslide on its ozone reduction requirements. Therefore, DEEP is required to maintain the NOx emission reductions required by RCSA section 22a-174-22c. DEEP is currently working on the mechanism to ensure that the NOx emissions reductions achieved through RCSA section 22a-174-22c will be maintained.

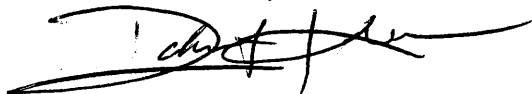
Recognizing that the U.S. Environmental Protection Agency (EPA) is not administering the allowance tracking and trading provisions of CAIR, this letter identifies those provisions of RCSA section 22a-174-22c for which we expect continued compliance and that we will continue to enforce. DEEP will continue to require the monitoring and reporting requirements of 40 Code of Federal Regulations (CFR) 75 subpart H, which are applied to CAIR sources through 40 CFR 96 Subpart HHHH, which is incorporated by reference into RCSA section 22a-174-22c, and RCSA sections 22a-174-22c(i)(1) through (3). DEEP will also continue to issue CAIR permits under 40 CFR 96 Subpart CCCC, which is incorporated by reference into RCSA section 22a-174-22c.

This means that owners and operators of CAIR sources should continue to report NOx mass emissions data and heat input data quarterly to EPA via the Clean Air Markets Division and submit an annual ozone season net electricity output report to DEEP. Owners and operators must also maintain existing CAIR permits and obtain CAIR permits as necessary for new equipment or modifications. Owners and operators will also need to maintain current Designated Representatives and assign Designated Representatives for new equipment, as applicable. Owners and operators must continue to comply with these requirements while DEEP considers options for maintaining ozone season reductions. Given your satisfaction of these provisions, at this time you are not required to perform allowance transactions or compliance determinations to satisfy RCSA section 22a-174-22c.

DEEP will provide further information as it becomes available. In the meantime, if you have any questions, please contact Merrily Gere at (860) 424-3416 or merrily.gere@ct.gov or Wendy Jacobs at (860) 424-3457 or wendy.jacobs@ct.gov. In addition, we have included a copy of an electronic message that EPA sent to CAIR and CSAPR sources regarding the transition to CSAPR. While most of

the information is pertinent only to CSAPR sources, the last section on "monitoring" and the EPA contact information at the end of the message may be of help to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Klee", with a long horizontal flourish extending to the right.

Robert J. Klee,
Commissioner

Subject: Cross-State Air Pollution Rule (CSAPR) Implementation

Dear Designated Representative:

You are receiving this email from EPA's Clean Air Markets Division (CAMD) because one or more of your units is subject to the Clean Air Interstate Rule (CAIR) or has been identified as potentially subject to CSAPR.

On April 29, 2014, the U.S. Supreme Court issued an opinion reversing a D.C. Circuit decision that had vacated CSAPR. Following the remand of the case to the D.C. Circuit, EPA requested that the court lift the CSAPR stay and toll the CSAPR compliance deadlines by three years, which would allow implementation of Phase 1 to begin for 2015. On October 23, 2014, the D.C. Circuit granted EPA's motion and provided a schedule for resolving the remaining legal challenges in the case.

Except for the changes in dates, CSAPR will be implemented as is, including the modifications finalized in the December 2011 Supplemental Rule (adding several states to the CSAPR ozone season program) and the February 2012 and June 2012 Revisions Rules (adjusting certain state budgets and allowance allocations, and delaying implementation of CSAPR's assurance provisions until Phase 2). Consistent with the Court-ordered schedule, Phase 1 of CSAPR will begin in 2015, and the owners and operators of units subject to any CSAPR Program must ensure that they comply with all applicable CSAPR requirements. The Court's actions also mean 2014 will be the last calendar year in which the CAIR NO_x annual (CAIRNO_x), CAIR ozone season (CAIRO₃), and CAIR SO₂ (CAIRSO₂) Programs apply.

EPA Actions Related to CSAPR Implementation

Revisions to CSAPR Regulatory Text in the CFR

In an interim final rule signed November 21, 2014, EPA is amending the regulatory text in the *Code of Federal Regulations* to reflect the revised schedule for CSAPR implementation established by the Court's order. In general, this means that any CSAPR deadline that would have occurred after the December 30, 2011 stay has been tolled by three years. For example, dates originally indicating that compliance with Phase 1 of CSAPR begins in 2012 have been changed to 2015, and dates originally indicating that compliance with Phase 2 and with the rule's assurance provisions begins in 2014 have been changed to 2017. Other dates in the CFR text that have been tolled concern specific deadlines for sources to certify monitoring systems and start reporting emissions under CSAPR, deadlines for EPA to allocate and record emission allowances, deadlines for states to submit notifications and SIP revisions to replace EPA's default emission allowance allocations, and deadlines related to the sunset of CAIR. The interim final rule may be viewed at EPA's CSAPR website at www.epa.gov/crossstaterule/actions.html.

Posting of Unit-Specific CSAPR Allowance Allocations Reflecting the Impact of Tolling

Subsequent to the original CSAPR rulemaking, EPA conducted three additional rulemakings that added five states to the CSAPR ozone-season NO_x program, increased some state budgets, changed the amounts of some new unit set-asides, and adjusted allocations of allowances among "existing" (i.e., pre-2010) units in some states. Following these rulemakings, EPA posted spreadsheets showing unit-specific allocations accounting for the changes. The D.C. Circuit's order lifting the stay and tolling CSAPR's deadlines moves all of the years to which these previously posted allocations apply by three years, so that the allocations previously posted for 2012 allowances now apply to 2015 allowances, and so on. EPA has posted a spreadsheet at www.epa.gov/crossstaterule/actions.html showing unit-specific CSAPR allowance allocations for pre-2010 units reflecting the changes in allocation years resulting from the Court's order tolling the CSAPR deadlines. (Under EPA's allocation methodology, "new" – i.e., post-2009 – units will continue to receive their allocations from the new unit set-asides.) These allocations cover all the state budgets, including budgets set in the Supplemental Rule, and reflect all the changes to emissions budgets, new unit set-asides, and unit-specific allocations made in the two Revisions Rules. The posting is announced in a notice that was signed November 21, 2014, and will be published in the *Federal Register*. Note that the spreadsheet shows the allocations that would result from EPA's

allocation methodology, and that these allocations will not be used in instances where states supply alternative unit-specific allocations for 2016 or later years in accordance with CSAPR's procedures.

Adjustments to Previously Recorded CSAPR Allowances

With respect to state budgets whose recordation deadlines passed before the stay, and for which EPA has therefore already recorded allowance allocations, EPA will "re-vintage" the previously recorded 2012-vintage and 2013-vintage CSAPR allowances to 2015-vintage and 2016-vintage allowances, respectively. CAMD Business System accounts holding these allowances will be temporarily frozen for a brief period when these adjustments are carried out. CAMD will notify DRs, ADRs, and agents in advance of the specific time during which the accounts will be frozen. After the re-vinting, EPA will record any additional allowances needed to bring the previously recorded CSAPR allowance allocations for 2012 and 2013 under those budgets up to the corresponding unit-specific allocations shown in the spreadsheet described above for 2015 and 2016, respectively, reflecting the changes finalized in the two Revisions Rules.

Note that with respect to state budgets whose recordation deadlines did not pass before the stay, EPA will record allocations by the respective deadlines as tolled by the Court's order and as reflected in the interim final rule, using either the allocations in the spreadsheet described above or alternative allocations supplied by states in accordance with CSAPR's procedures.

EPA Actions Related to CAIR 2014 Compliance and Subsequent Sunset

Reconciliation (True-up) for CAIR 2014

As noted above, 2014 will be the last year that CAIR remains in effect. Owners and operators are obligated to hold enough CAIR allowances in the compliance accounts associated with their CAIR-subject sources by the applicable allowance transfer deadlines for the 2014 CAIR control periods (December 1, 2014 for the 2014 CAIROS Program, March 2, 2015 for the 2014 CAIRNOX and CAIRSO₂ Programs) to cover their NO_x and SO₂ emissions for the applicable 2014 control periods. Although CAIR's offset and automatic penalty provisions will not apply with respect to 2014 excess emissions, any such excess emissions will remain subject to discretionary civil penalties under Clean Air Act section 113, and EPA retains all enforcement options.

Removal of CAIRNOX and CAIROS Allowances from CAMD Business System Accounts

To reduce possible confusion during the initial implementation of CSAPR, EPA will remove all 2015-vintage CAIRNOX and CAIROS allowances from CAMD Business System accounts within 90 days of the date the interim final rule is published in the *Federal Register*. EPA also plans to remove all remaining 2014-vintage and earlier CAIRNOX and CAIROS allowances from CAMD Business System accounts following completion of true-up for 2014 compliance. Accounts holding these allowances will be temporarily frozen for a brief period when the removals are carried out. CAMD will notify DRs, ADRs, and agents in advance of the specific times during which the accounts will be frozen.

Monitoring

Any questions regarding monitoring requirements under 40 CFR part 75, including questions regarding transitioning from monitoring under CAIR to monitoring under CSAPR, should be directed to your appropriate HQ EPA monitoring contact. Sources covered by CAIR but not CSAPR should not assume that part 75 monitoring requirements will no longer apply (for example, ARP and NO_x SIP Call requirements remain in place.) See the "Contacts" information at the bottom of this message for assistance with monitoring questions.

CAMD is looking forward to working with you as we begin implementation of CSAPR. If you have any questions regarding CSAPR, please direct them to the appropriate contact person(s) listed below.

Sincerely,

Janice Wagner
Chief, Market Operations Branch
Clean Air Markets Division
U.S. Environmental Protection Agency

cc:

Alternate Designated Representatives
General Account Primary Representatives
General Account Alternate Representatives
Allowance Trading Agents
Compliance Agents
General Account Management Agents
Retrieve Monitoring Plan QA and Emissions Data Agents
Source Management Agents
Submit Monitoring Plan Data Agents
Submit Monitoring Plan and QA Data Agents
Submit Monitoring Plan QA and Emissions Data Agents

CAMD Web Resources

CSAPR unit-level allowance allocations to "existing" units (units that commenced commercial operation prior to 2010) can be downloaded at <http://www.epa.gov/crossstaterule/actions.html>.

The CSAPR home page is at <http://www.epa.gov/crossstaterule/>, and includes general and technical information, FAQs, and other CSAPR-related resources. (Note that EPA is still in the process of revising this website and the linked resources to reflect the Court's order tolling CSAPR's deadlines.)

Information regarding the Emissions Collection and Monitoring Plan System (ECMPS) is provided at <http://ecmps.camdsupport.com>.

CAMD CAIR and CSAPR Contacts

Allowance Allocations and Recordation: Michael Cohen at cohen.michael@epa.gov or (202) 343-9497, or Paula Branch at branch.paula@epa.gov or (202) 343-9168.

Applicability: Robert Miller at miller.robertl@epa.gov or (202) 343-9077, or Louis Nichols at nichols.louis@epa.gov or (202) 343-9008.

Certificate of Representation: Laurie DeSantis at desantis.laurel@epa.gov or (202) 343-9191, or Robert Miller.

Monitoring: EPA-CAMD HQ monitoring contacts are assigned by EPA Region and are listed at <http://www.epa.gov/airmarkets/business/industry/contacts.html>.

Reconciliation ("true-up"): Kenon Smith at smith.kenon@epa.gov or (202) 343-9164, or Robert Miller.