



## State of New Jersey

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

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SHAWN M. LATOURETTE  
*Commissioner*

February 27, 2025

### **Via SPeCS**

Michael Martucci, Regional Administrator  
United States Environmental Protection Agency  
Region 2  
290 Broadway  
New York, NY 10007-1866

**Re: Final Equivalent Alternative Program Demonstration:  
Clean Air Act Section 185 Requirements for the Revoked 1-Hour Ozone  
National Ambient Air Quality Standard**

Dear Regional Administrator Martucci,

Enclosed for your review is New Jersey's final equivalent alternative program demonstration for meeting the anti-backsliding requirements of Clean Air Act (CAA) Section 185 for the revoked, 1979 1-hour ozone National Ambient Air Quality Standard (NAAQS). The primary purpose of this document is to demonstrate that New Jersey's Clean Energy Program (NJCEP) is an equivalent alternative program to fulfill the CAA Section 185 fee requirement for the New Jersey portion of the New York-N. New Jersey-Long Island (NY-NJ-CT) Severe Nonattainment Area.

The NY-NJ-CT Nonattainment Area was classified as Severe-17 nonattainment in 1990 for the 1-hour ozone NAAQS with an attainment date of November 15, 2007. Although the 1-hour ozone NAAQS was revoked in 2005, USEPA determined on July 18, 2012 that the NY-NJ-CT Nonattainment Area failed to attain the standard by its applicable 2007 attainment deadline but subsequently attained the 1-hour ozone NAAQS in 2010. Consequently, the requirements of CAA Section 185 fee program were applicable to the area for calendar years 2008 and 2009.

USEPA has approved the use of equivalent alternative programs in place of the CAA Section 185 fee programs for the revoked 1979 1-hour ozone standard. In accordance with CAA Section 172(e) and USEPA guidance, the alternative programs must be "not less stringent" than the Section 185 fee program. New Jersey demonstrates that NJCEP, which collects fees from electricity ratepayers on a statewide basis with the proceeds used to fund energy efficiency and renewable energy in New Jersey, is an acceptable alternative program to satisfy the Section 185 fee program requirements for the 1979 1-hour ozone NAAQS.

The document demonstrates that the actual fees expended by NJCEP exceed the fees that would have been collected by the CAA Section 185 fee program for 2008 and 2009. Therefore, NJCEP is an equivalent alternative program and satisfies the CAA Section 185 requirement for the New Jersey portion of the NY-NJ-CT Nonattainment Area consistent with USEPA guidance and Sections 172(e) and 172(c)(8) of the CAA.

Should USEPA wish to discuss New Jersey's equivalent alternative 185 Fee Program for the revoked 1-hour ozone NAAQS, we invite you to contact Sharon Davis, Chief of the Bureau of Evaluation and Planning at (609) 940-5660 or [sharon.davis@dep.nj.gov](mailto:sharon.davis@dep.nj.gov).

Sincerely,



Shawn M. LaTourette  
Commissioner

Attachment

c: *via email (letter only)*

Matt Laurita, Acting Director, Air and Radiation Division, USEPA Region 2

Kirk Wieber, Chief, Air Programs Branch, USEPA Region 2

Ken Fradkin, Supervisor, Air Planning, USEPA Region 2

Paul Baldauf, Assistant Commissioner, NJDEP Air, Energy & Materials Sustainability

Francis C. Steitz, Director, NJDEP Division of Air Quality and Radiation Protection

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