

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 14 2005

LaJuana Wilcher, Secretary
Environmental and Public
Protection Cabinet
Capital Plaza Tower, 5th Floor
Frankfort, KY 40601

Dear Ms. Wilcher:

I am writing concerning Kentucky's efforts to implement a regional strategy, known as the nitrogen oxides (NO_x) SIP Call, which is intended to reduce ozone levels across the eastern United States by reducing emissions of NO_x. The NO_x State Implementation Plan (SIP) Call will protect the health of over one hundred million Americans living in Kentucky and the eastern United States from harmful levels of air pollution because reducing NO_x emissions will prevent thousands of ozone-related illnesses each year, including aggravated cases of childhood asthma.

In October 1998, the Environmental Protection Agency (EPA) issued the NO_x SIP Call rule. (63 Fed. Reg. 57356, October 27, 1998.) As a result of various challenges filed in the D.C. Circuit Court of Appeals (Court), EPA divided this rule into Phases I and II. The requirements that the Court upheld were included in Phase I, while the requirements that the Court vacated or remanded to EPA were included in Phase II, and were addressed in our April 21, 2004, rule (70 Fed. Reg. 5159). On April 1, 2005, the SIP revisions covering Phase II became due to EPA.

The EPA appreciates the progress made by Kentucky to meet air pollution improvement goals, and its efforts in implementing Phase I of the NO_x SIP Call. On September 14, 2005, we received Kentucky's proposed Phase II SIP, which is the subject of a public hearing on October 21, 2005, with written comments due October 31, 2005. At this time, however, Kentucky has not submitted a final Phase II SIP to address the additional emissions reductions required by Phase II.

When a State does not submit a plan to EPA that meets the requirements of Phase II of the NO_x SIP Call, including adopted rules, the Clean Air Act authorizes EPA to make a finding of failure to submit a plan. Through this letter, I am informing you that we will be making such a finding for Kentucky. We will be formally publishing this finding in the Federal Register shortly, which will indicate that Kentucky has not yet submitted a complete, fully-adopted SIP in response to Phase II of the NO_x SIP Call. We are taking this action to fulfill our responsibility to ensure that all States subject to Phase II of the NO_x SIP Call are moving forward to reduce NO_x emissions that cause pollution contributing to nonattainment in downwind States.

Please be assured that my Office has been and will continue to work closely with you and your Department of Air Quality to undertake all necessary efforts to ensure that Kentucky makes

a complete submission, including adopted rules, as soon as possible. We also look forward to continuing to work with you, and assisting you in completing and submitting a final SIP revision that the Agency can approve to reduce emissions of NOx. By doing this, Kentucky will avoid the need for a Federal Implementation Plan (FIP) to implement the SIP Call. We understand that Kentucky expects to make the final submission prior to the end of calendar year 2005, well before the 24-month time frame ends for EPA to implement a FIP.

Again, thank you for your continued efforts in working with EPA to implement the NOx SIP Call, and to complete Phase II. Kentucky's actions will enable the full realization of the public health benefits from this ground-breaking strategy, and will result in cleaner air for the citizens of the Commonwealth and other States in the eastern United States.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. I. Palmer, Jr.", enclosed in a large, stylized loop.

J. I. Palmer, Jr
Regional Administrator

cc: John Lyons, Director, KDAQ
Art Williams, Director, LMAPCD