UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

DEC 13 2017

Mrs. Towana Moore
Vice-President of Business Services
James Madison University
181 Patterson Street MSC 0501
Harrisonburg, Virginia 22807

Re: Applicability of Boiler Regulations Subpart DDDDD and JJJJJJ Regarding "Once in Always In" and How This Affects Notification and Reporting Requirements

Dear Mrs. Moore:

This letter is in response to your September 26, 2017 correspondence requesting a determination of rule applicability for facility boilers. As stated in your letter, James Madison University (JMU) is in the process of renewing its Title V operating permit and seeks a written determination from the Environmental Protection Agency (EPA) to ensure compliance with the correct regulation. JMU is seeking clarification as to when it officially became an area source, which boiler regulation applies to each boiler, and how the transition from major source to area source impacts notification requirements.

This determination will cover five boilers; B1, B2, B3, B4, and B5. The boilers are located at the facility's Main Campus Power Plant and East Campus Power Plant in Harrisonburg, VA, and are subject to the following regulations:

40 C.F.R. Part 63, Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters

40 C.F.R. Part 63, Subpart JJJJJJ - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources

Boilers B1, B2, and B5 are located at the East Campus Power Plant, formerly known as the City of Harrisonburg (COH) Resource Recovery Facility (RRF). On October 22, 2009, EPA determined that, because of facility co-dependence, the RRF and JMU were considered a single stationary source under common control.

The COH also operated two Municipal Waste Combustion Units (MWCU) at the RRF. The MWCU were decommissioned on April 8, 2015. On April 9, 2015, the Virginia Department of Environmental Quality (DEQ) issued a letter stating that the MWCU were permanently shut down. DEQ's letter also noted that the equipment and its associated emissions were removed from their air inventory and that air pollutant emissions were considered to be zero in any future air quality analysis.

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A major source, as defined in 40 C.F.R. Part 63, Subpart A – General Provisions is, "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant (HAP) or 25 tons per year or more of any combination of hazardous air pollutants, unless the Administrator establishes a lesser quantity, or in the case of radionuclides, different criteria from those specified in this sentence." An area source is defined simply as a source that does not meet the major source criteria. With the removal of the MWCU, JMU no longer had the potential to emit above the 10 or 25 ton per year threshold. Beginning on April 8,2015, JMU did not meet the definition of a major source and therefore became an area source on that date.

Boilers B3 and B4 are located at the facility's Main Campus Power Plant. Based on EPA's determination on October 22, 2009, these boilers became part of an area source on the same date, April 8, 2015, as the boilers located at the East Campus Power Plant.

On May 16, 1995 EPA issued a memo entitled, "Potential to Emit for MACT Standards – Guidance on Timing Issues," often referred to as the "Once In Always In," rule. The memo states that, "facilities that are major sources for HAPs on the 'first compliance date' are required to comply permanently with the MACT standard…" The compliance dates in Subpart DDDDD are January 31, 2016 for existing boilers and April 1, 2013 for new boilers. Subpart DDDDD defines new boilers as those being constructed after June 4, 2010. Boilers B1 and B2, were constructed in 2011 and are therefore, defined as new boilers. Boilers B3, B4, and B5 were constructed between 1992 and 1997, all prior to June 4, 2010, and therefore defined as existing boilers. JMU became an area source on April 8, 2015, meaning that any new boilers (i.e. constructed after June 4, 2010) at the facility became subject to Subpart DDDDD on the compliance date (i.e. April 1, 2013. Therefore, Boilers B1 and B2 are subject to Subpart DDDDD.

When JMU became an area source on April 8, 2015, it was operating five boilers that were affected by the change. Boilers B1 and B2, considered new boilers due to their 2011 construction date, fall under the "Once In Always In," rule and remain subject to Subpart DDDDD. Boilers B3, B4, and B5, constructed between 1992 and 1997, all prior to June 4, 2010, are defined as existing boilers. Because JMU became an area source prior to the January 31, 2016, compliance date for existing boilers, boilers B3, B4, and B5 are not subject to Subpart DDDDD. Subpart JJJJJJ however, applies to facilities that own or operate an industrial, commercial, or institutional boiler that is located at, or is part of, an area source. As a result, Boilers B3, B4, and B5 are subject to Subpart JJJJJJ.

Lastly, JMU inquired about how to comply with the initial notification requirements of Subpart JJJJJJ and how to address previous and future compliance reports already submitted under Subpart DDDDD. For boilers now subject to Subpart JJJJJJ that have already submitted an initial notification under Subpart DDDDD, new initial notifications do not need to be resubmitted. Future reporting and notification requirements must comply with the requirements of the applicable subpart.

This determination was made in coordination with the Office of Air Quality Planning and Standards, the Office of Enforcement and Compliance Assurance, the Office of General Counsel, and the Virginia Department of Environmental Quality.

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If you have any questions regarding this response, please contact Jim Adamiec of my staff at (215) 814-2175.

Sincerely,

Cristina Fernandez, Director
Air Protection Division, Region III

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