



New Source Review Program Updates

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Status of GHG Rules

- Summary of 60-day letters
 - Almost all states have submitted letters
 - About 2/3 of the states commit to implementation by January 2, 2011.
 - The vast majority will implement the Tailoring Rule by rulemaking (around 80 percent).
 - Some have to have legislative approval which may lead to minor delays (about a dozen).



Status of GHG Rules

- GHG SIP Call Rule Comment Period ended 10/04/10.
- EPA proposed SIP call for 13 deficient States
- List will be revised based on 30 day letters from States
- Final SIP call scheduled for December 1- Finding of failure and FIP to be issued on December 22, 2010



Final Rules Issued

- PM2.5 Increments, SILs and SMC Rule signed on 9/30.
 - SILs and SMC effective 60 days after promulgation
 - Increments will not become effective for a year after promulgation (§ 166 (a))
- PM2.5 Increments do not affect PM10 increments. PM10 increments can not be revoked since they substituted the statutory TSP increments.



Rule Reconsiderations

- PM_{2.5} NSR Rule
- Fugitive Emissions Rule
- Reasonable Possibility Rule
- Aggregation, Debottlenecking and Project Netting Rule
- WI/OH NSR Reform SIP Approval



PM_{2.5} NSR Rule

Petitioners asked EPA to reconsider 4 elements of the final PM_{2.5} NSR Rule:

1. 3-year schedule for SIP revision submittal & policy to continue using PM₁₀ surrogate policy in the interim.
2. Grandfathering of PM₁₀ surrogate policy under Federal PSD program (EPA + delegated states).
3. Transition period for condensable particulate matter (CPM).
4. Interpollutant Trading: EPA-preferred offset ratios for PM_{2.5} precursors.



Reconsideration of PM₁₀ Surrogate Policy

- On April 24, 2009, EPA issued a letter to the petitioners granting the petition for reconsideration in order to allow public comment on each of the four issues raised in the petition and also stayed the grandfathering provision for 3 months. Notice of the stay was published on June 1, 2009.
- In that letter to the petitioner, EPA also indicated our intent to propose repealing the grandfathering provision under the Federal PSD program.
- September 2009: Second stay (9 months) issued
- February 2010: NPRM to repeal grandfather provision and end 1997 PM₁₀ Surrogate Policy in State PSD programs
- Final Rule scheduled to go to OMB review shortly, followed by promulgation in early 2011



Reconsideration of Interpollutant Trading Policy

- EPA agreed to reconsider on grounds that policy did not undergo public review
- EPA is reviewing the basis for the recommended precursor trading ratios
- EPA is also taking into consideration the effects of different NAAQs averaging periods (long-term vs short-term) for using ratios
- Proposal scheduled for Spring 2011



Fugitive Emissions Rule

- NSR Applicability for fugitive emissions, Final Rule issued 12/19/08.
- Reconsideration and stay granted 4/24/09
- Hence the old policy of including fugitives for all modifications is in place now.
- Our final action published 3/31/2010 (75 FR 16012) stays the effect of the rule for 18 months, through 10/3/11.



Reasonable Possibility Rule

- Requires recordkeeping and reporting when the projected increase in emissions to which the "reasonable possibility" test applies equals or exceeds 50 percent of the Clean Air Act's NSR significance levels for any pollutant.
- Final 12/21/07
- Granted reconsideration, no stay on 4/24/09
- Proposal scheduled for early 2011.



Aggregation, Debottlenecking and Project Netting Rule

- September 8, 2006: EPA proposed three changes to the NSR program.
- Final Rule on Aggregation only: 1/15/09
 - Combine emissions when projects are substantially related either technically or economically
 - Debottlenecking rule withdrawn and took no action on PN.
- Reconsideration granted 2/09
- Effective date of 1/09 rule delayed until 5/18/10.
- The effective date of the final rule is postponed until no fixed date, as allowed under APA section 705, while litigation is pending.



WI/OH NSR Reform SIP Approval

- Wisconsin SIP incorporating 2002 NSR Reform rule was approved in 12/08
- NRDC/Sierra petition for reconsideration and request for withdrawal/stay of rule, saying proposed SIP revisions violated CAA sections 110(I) and 193.
- EPA denied reconsideration
- An identical reconsideration petition has been received for Ohio's SIP approval



NSR Antibacksliding Rule

- This rule clarifies the obligation to retain nonattainment NSR requirements specific to the 1-hour ozone standard when implementing our 1997 8-hour ozone NAAQS.
- Proposed rule was published on 08/24/10
- A public hearing is scheduled in Washington DC on October 12, 2010.
- Comment period will close on November 12, 2010.



Tribal NSR Rules

- Regulations for minor NSR in tribal lands and for nonattainment major NSR.
- Minor NSR rules include de minimis thresholds, case by case control technology review and General Permits
- Proposed 8/21/06
- Final Rule anticipated 01/11