



New Source Review Program Update

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NSR Rules/Guidance Update

- PM_{2.5} NSR Rule
- Repeal of the Grandfathering Provision
- PM₁₀ Surrogate Policy
- Condensable PM_{2.5}
- PM_{2.5} Test methods Rule
- Inter-Pollutant Trading Policy
- PM_{2.5} Permit modeling Guidance
- PM_{2.5} Increments, SILs and SMC
- Fugitive Emissions Rule
- Reasonable Possibility Rule
- Aggregation, Debottlenecking and Project Netting Rule
- Ozone NSR Anti-backsliding Rule
- Tribal NSR Rules



PM_{2.5} NSR Rule

- Earthjustice (for NRDC & Sierra Club) petitioned EPA for reconsideration of 4 issues contained in May 16, 2008 PM_{2.5} NSR Implementation Rule
- Original petition submitted on 7/15/2008 denied; but agreed to by new Administration following 2nd submittal on 2/10/09
- In an April 24, 2009 memo, EPA agreed to
 - Reconsider all 4 issues
 - Issue NPRM to repeal grandfather provision
 - Issue administrative stay (3 mo) for grandfather provision



PM_{2.5} NSR Rule

The 4 issues are:

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) accounting.
4. Interpollutant Trading: EPA-preferred offset ratios for PM_{2.5} precursors.



Repeal of the Grandfathering Provision

- First issue in Petition for Reconsideration of 2008 final $PM_{2.5}$ rule addressed through rulemaking
- 2/11/2010 NPRM to repeal grandfather provision (which allowed continued use of PM_{10} Surrogate Policy for “grandfathered” sources) and end early the use of the PM_{10} Surrogate Policy in states with approved PSD SIPs.
- Final rule published 5/18/2011, effective 7/18/2011



PM₁₀ Surrogate Policy

- Pursuant to case law re surrogacy, EPA has required that sources demonstrate that PM₁₀ is an adequate surrogate for PM_{2.5} for that specific facility
- This EPA position was first articulated in the LG and E Title V Order in August 2009 and essentially required that the source either submit a demonstration of the adequacy of surrogacy or submit a PM_{2.5} NAAQS compliance demonstration.
- In the final repeal rule, EPA took no action on proposal to end use of surrogate policy in SIP approved States, since the default end date was May 16, 2011.



Condensable PM_{2.5}

- NPRM to end NSR transition period (TP) for condensable particulate matter (CPM) (sought comment as part of NPRM for PM Test Methods - 3/25/2009)
- Separated the final rule to end the NSR TP from the final test methods rule - to be published simultaneously with the final test methods rule. NSR TP will end 60 days after promulgation of this rule.
- Test Methods Rule delayed and promulgated in December 2010. Hence, we did not take final action on ending the CPM transition period, which ended by default as of January 1, 2011.



PM_{2.5} Test Methods Rule

- Methods for Measuring Filterable PM₁₀/PM_{2.5} and CPM
 - Final rule published in 12/21/2010 FR: effective 1/1/2011
 - Amends Methods 201A and 202

- Method 201A
 - Add particle sizing device for PM_{2.5}

- Method 202
 - Revises sample collection and recovery procedures
 - Reduces formation of reaction artifacts that could overestimate CPM
 - Increases precision of method and improves consistency in measurements obtained between different source tests



PM_{2.5} Test Methods Rule (Cont.)

- New Method 202 sampling concern
 - Several parties have recently raised concerns about CPM formation from chemical reactions caused during sampling
 - Allege formation of solid sulfate from reaction of free ammonia (from NO_x control) with SO₂ in test equipment
 - EPA has concluded that reaction does not occur as a result of the test equipment
 - Reaction occurs either in the process, the control device, in the stack or very soon after release from the stack
 - Consequently, Method 202 does not artificially enhance the ammonia/SO₂ reaction beyond conditions not otherwise present prior to stack exit



Inter-pollutant Trading Policy

- EPA had agreed to propose and seek comment on recommended inter-pollutant offset ratios
- Re-analysis of “Preferred ratios” and its applicability as a “one size fits all” is currently underway
- EPA considering options for moving forward- stay tuned for announcement



PM2.5 Modeling Guidance

- Guidance memo issued on March 23, 2010
- Provides guidance for significant impact & NAAQS compliance demonstration
 - Accounts for probabilistic form of NAAQS
 - Tier 1 approach –modeled impacts (direct PM2.5 emissions) with monitored background levels (direct PM2.5 + precursor impacts) ; no temporal correlation
 - Tier 2 approach - combine modeled and monitored data on a seasonal or quarterly basis (additional guidance will be provided)
- Additional guidance will be provided for PM2.5 increments analysis based on deterministic form of increments



PM_{2.5} Increments, SILs, SMC

- Final rule published on October 20, 2010 FR
- Rule establishes PM_{2.5} increments for Class I, II and III PSD areas
 - “Trigger date”: 10/20/2011
 - “Major source baseline date”: 10/20/2010
 - Redefines “baseline area” for PM_{2.5} increments
- Rule establishes Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)
 - SILs: Class I, II and III (annual, 24-hr)
 - SMC (adjusted correction factor)
 - Both SILs and SMC are discretionary for States
- EPA has received reconsideration request from TCEQ and Sierra Club – EPA intends to grant on minor procedural issues – no stay of the rule



Fugitive Emissions Rule

- 12/19/08 Rule – reversed prior interpretation of fugitive emissions accounting for NSR applicability
 - Do not count fugitive emissions when determining whether a major modification has occurred unless in one of 28 + 2 source categories (same as for major stationary source)
- Reconsideration and stay granted 4/24/09
- Interim Rule published 3/30/11
 - Clarified stay by reverting CFR text back to pre-2008 rule language until EPA completes reconsideration
- EPA intends to complete reconsideration of 2008 Rule by 10/4/12



Reasonable Possibility Rule

- Rule identifies when a source should do recordkeeping and reporting after undergoing a modification that does not trigger major NSR
- 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.
- Granted reconsideration on 4/24/09
- Now preparing for a Fall 2011 recon proposal.



Aggregation, Debottlenecking and Project Netting Rule

- 2006: EPA proposed three changes to the NSR program:
 - Aggregation – clarified how to group related projects at a single source for NSR purposes
 - Debottlenecking – considers emission increases at units downstream and/or upstream from the changed unit
 - Project Netting (PN) – considers emissions decreases when calculating the emissions change from a project rather than using contemporaneous netting
- Final Policy on Aggregation only: 1/09
 - Combine emissions when projects are substantially related either technically or economically
 - 3 year presumption against aggregation
 - Debottlenecking rule withdrawn and took no action on PN.
- Reconsideration granted 2/09
- On 5/20/2010, effective date delayed indefinitely pending judicial review



Ozone NSR Anti-backsliding Rule

- Purpose: Determine final EPA policy on the criteria under which an area's legacy nonattainment NSR regime must be retained.
- Proposed rule on August 24, 2010.
- Earth Justice commented that the legacy regime (current NSR approach) must be retained for as long as the area has not been officially designated "attainment" for any subsequent effective NAAQS (e.g., 2008/2011)
- EPA is evaluating comments and will finalize the rule in winter 2011.



Tribal NSR Rules

- Regulations for nonattainment major NSR and minor NSR in tribal lands
- Proposed 8/21/2006
- Final Rule anticipated 06/2011
- Will allow sources to obtain synthetic minor sources, General Permits for “true” minor sources and site-specific permits
- EPA Regions will be the PA unless a tribe takes delegation or develops a TIP