

NSR/PSD Update

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2002 Reforms

- Baseline actual emissions (10-year lookback).
- "Actual-to-future actual" test for emission increases (replacing actual-to-potential).
- Plantwide applicability limits (PALS).
- State plans adopting these rules were due in 2006.

2002 Reforms That Did Not Survive

- Routine maintenance, repair, and replacement (RMRR) definition – Removed by Court.
- Pollution control project exclusion (PCP)- Court removed.
- Clean unit exemption – Removed by Court.

Significant Emissions Increase

- Projected actual emissions minus baseline actual emissions $>$ PSD threshold is significant emissions increase for modification.
- Project must result in significant emissions increase and significant net emissions increase for PSD applicability of modification.

Baseline Actual Emissions

- Actual emissions during 24-month period during last 10 years (5 years for EUSGUs).
- Non-compliant emissions subtracted from actual emissions.
- Startup, shutdown, and malfunction (SSM) emissions included unless deemed non-compliant.

Projected Actual Emissions

- Post project potential to emit or projected actual emissions.
- Projection may be adjusted to exclude any portion of the emissions increase that the changed unit(s) could have accommodated during the 24-month baseline period and is unrelated to the change.

Recordkeeping and Reporting

- When there is a reasonable possibility that the project could result in a significant emissions increase and the source elects to calculate projected actual emissions, certain recordkeeping and reporting requirements must be met.

EPA Recent Rules and Rule Reconsiderations

- PM2.5 NSR Rule.
- Fugitive Emissions Rule.
- Reasonable Possibility Rule.
- Aggregation, Debottlenecking and Project Netting Rule.
- WI NSR Reform SIP Approval.
- Johnson CO2 Memo.

Status of Rulemaking

PM2.5 Final NSR Implementation Rule

- Effective on July 15, 2008.
- Covers NNSR & PSD (40 CFR parts 51 and 52).

PM2.5 NSR Rule

Elements petitioned for reconsideration

- 3-year schedule for SIP revision submittal & policy to continue using PM10 surrogate policy in the interim.
- Grandfathering of PM10 surrogate policy under Federal PSD program (Delegated states).

PM2.5 NSR Rule.. Continued

- Transition period for condensable particulate matter (CPM).
- Interpollutant Trading - Offset ratios.

Recent Fugitive Emissions Rule

- NSR Applicability for fugitive emissions.
- Do not count fugitive emissions when determining whether a major modification has occurred unless in one of 28 source categories.
- Final 12/19/08.
- Reconsideration and stay granted 4/24/09.

Recent Reasonable Possibility Rule

- Requirements for recordkeeping and reporting following modification not triggering major NSR.
- Requires recordkeeping and reporting when the projected increase in emissions equals or exceeds 50 percent of the Clean Air Act's NSR significance levels for any pollutant.

Recent Reasonable Possibility Rule.. Continued

- Final 12/21/07.
- Reconsideration granted - no stay.

Aggregation, Debottlenecking & Project Netting Rule

September 8, 2006: EPA proposed three changes to the NSR program

- Aggregation - 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) - source-wide analysis of emissions increases and decreases over a five-year period.

Aggregation, Debottlenecking & Project Netting Rule

- Final rule on aggregation only 1/15/09 - Emissions combined when projects related either technically or economically.
- Debottlenecking rule withdrawn and no action on PN.
- Reconsideration granted 2/09 and effective date delayed until 5/18/10.

Aggregation

- Prevents circumvention of the NSR process by splitting a major project into several minor projects.
- Interim during reconsideration the "3Maplewood" test continues
 - Economic viability.
 - Technical processes.

Aggregation

- Interim during reconsideration the "3Maplewood" test continues
 - Physical proximity.
 - Time-frame.
 - Funding.
- Administrative records must be kept.

Johnson CO2 Memo

- EPA Interpretation of "Regulated NSR pollutant" and "subject to regulation" under the Act.
- Includes only those pollutants "subject to a statutory or regulatory provision that requires actual control of emissions of that pollutant".

Johnson CO2 Memo

- Excludes pollutants, including CO₂, for which the Act only requires monitoring.
- Published 12/31/08.
- Reconsideration granted 2/17/09.

Flexible Air Permitting Rule

- Strategies for flexible NSR and Title V permitting
 - Advance approval of alternative operating scenarios and approved replicable methodologies.
- Final 1/13/09 but not published.
- Under EPA review.

Things Applicant can do to Facilitate NSR for Modification

- Keep good records of actual emissions of all criteria pollutants.
- Keep records of all non-compliant emissions.