

FACT SHEET

Implementation of the New Source Review (NSR) Program for Fine Particle Pollution; Proposed Repeal of the Grandfathering Provision and End the Coarse Particle Surrogate Policy

ACTION

- On February 4, 2010, the Environmental Protection Agency (EPA) proposed to repeal a portion of the rule implementing the New Source Review (NSR) permitting program for fine particle pollution. This part of the rule is known as “the grandfathering provision for PM_{2.5}”.
- This provision allowed federal Prevention of Significant Deterioration (PSD) permit applicants to meet permitting requirements for particulate matter by relying on requirements for coarse particles – those 10 micrometers in diameter and smaller (PM₁₀) – as a surrogate for meeting the requirements for particles 2.5 micrometers in diameter and smaller (PM_{2.5}) if they applied for the permit before July 15, 2008 and had not yet received their permit
- This proposal also would end the PM₁₀ Surrogate Policy earlier than scheduled. This policy currently may be used by states with EPA-approved PSD programs until May 2011, or until EPA approves the revised State Implementation Plan (SIP) for PM_{2.5}, whichever occurs first.
- The PM₁₀ Surrogate Policy has been in place since 1997, and is designed to enable sources to make a demonstration of compliance with PSD requirements for PM₁₀ as a surrogate for requirements for PM_{2.5} in light of various technical issues associated with undertaking a PM_{2.5} analysis. EPA has now determined that these technical issues have largely been resolved.

PM_{2.5} New Source Review (NSR)

- New Source Review (NSR) is a national preconstruction clean air permitting program that provides important public health and environmental protection. NSR is comprised of several preconstruction review permitting regulations for major stationary sources located in attainment or nonattainment areas. The part of NSR applicable to sources located in attainment areas is called the PSD program.
- In May 2008, EPA issued a rule addressing several NSR program requirements for sources that emit PM_{2.5} and the pollutants that contribute to its formation, i.e., precursors. The requirements addressed include:
 - SIPs outlining modifications to state NSR programs to account for emissions of fine particle pollution are due to EPA in three years.
 - Timing for implementation of the rule:

- On July 15, 2008—the effective date of the final rule—the new PM_{2.5} provisions applied immediately:
 - in states where the federal PSD program (40 CFR 52.21) applies (either EPA implements the program directly or has delegated that responsibility to the state); and
 - in nonattainment areas of states, through the ‘transitional’ NSR provisions (contained in Appendix S of 40 CFR part 51) until EPA approves a revised SIP.
- States with EPA-approved PSD programs, were authorized to continue to use the interim approach of relying on the PM₁₀ Surrogate Policy for up to 3 years (May 2011), or until their revised SIPs are approved, whichever occurs first.
- This rule did not require states to account for gases that could condense to form particles (called “condensables”) in PM_{2.5} emissions limits in PSD or nonattainment area NSR permits until January 1, 2011 or a possible earlier date depending on the timing of an upcoming rule that will revise EPA’s test methods for measuring emissions of these condensable particles.
- For nonattainment areas, this rule authorized interpollutant offset trading allowing reductions in direct PM_{2.5} to offset precursor emissions increases, emissions reductions of one precursor to offset emissions increases of another precursor, and reductions in precursor emissions to offset direct PM_{2.5} emissions increases.
- On July 15, 2008, and then again on February 10, 2009, the Natural Resources Defense Council and the Sierra Club petitioned EPA to reconsider and administratively stay specific parts of this final rule. The Petition objected to four parts of the final rule described above, including:
 1. providing the new transition schedule, including the use of the PM₁₀ Surrogate Policy for PSD programs in states with PSD programs that EPA has approved;
 2. “grandfathering” permit applications that were complete, before the rule’s July 15, 2008 effective date and that rely on EPA’s PM₁₀ Surrogacy Policy, so as to continue reviewing the permit application using PM₁₀ emissions as a surrogate for satisfying the new PM_{2.5} requirements;
 3. allowing states to exclude condensable particulate matter from NSR applicability and emission control requirements until January 1, 2011; and
 4. allowing states to use EPA-recommended PM_{2.5} precursor trading ratios to offset PM_{2.5} emissions increases in PM_{2.5} nonattainment areas

PM_{2.5} NSR Actions

- On January 16, 2009, EPA denied the first petition. However, on April 24, 2009, EPA responded to the second petition by reversing its decision, i.e., granting the petition for reconsideration and agreeing to stay one of the challenged provisions—the grandfathering provision for PM_{2.5} in the federal PSD program—for three months.
- On June 1, 2009, EPA published a notice in the Federal Register announcing the April 24 letter to the petitioners, agreeing to grant the petition for reconsideration and

to administratively stay for three months the grandfathering provision for PM_{2.5}. The Agency issued a second stay of the grandfathering provision, for an additional nine months, effective on September 22, 2009. Thus, the grandfathering provision will remain stayed until June 22, 2010.

BACKGROUND

- Congress established the NSR program as part of the 1977 Clean Air Act Amendments and modified it in the 1990 Amendments. NSR is a preconstruction permitting program that serves two important purposes.
 1. It ensures the maintenance of air quality standards when factories, industrial boilers and power plants are modified or added. In areas that do not meet the national air quality standards, NSR ensures that new emissions do not slow progress toward cleaner air. In areas that meet the standards, especially pristine areas like national parks, NSR ensures that new emissions fall within protective air quality standards.
 2. The NSR program ensures that state of the art control technology is installed at new plants or at existing plants that are undergoing a major modification.

HOW TO COMMENT

- EPA will accept comment on the proposal for 60 days after publication in the Federal Register. Comments, identified by Docket ID No. EPA-HQ-OAR-2003-0062, may be submitted by one of the following methods:
 - www.regulations.gov: Follow the online instructions for submitting comments.
 - E-mail: Comments may be sent by electronic mail (e-mail) to a-and-r-docket@epa.gov.
 - Fax: Fax your comments to: (202) 566-9744.
 - Mail: Send your comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2003-0062, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
 - Hand Delivery or Courier: Deliver your comments to: U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2003-0062. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

FOR ADDITIONAL INFORMATION

- Interested parties can download information on this action from EPA's Web site at: www.epa.gov/nsr.
- The notice of proposed rulemaking to extend the administrative stay and other background information are also available either electronically in www.regulations.gov, EPA's electronic public docket and comment system. Docket ID No. is EPA-HQ-OAR-2003-0062.