

Activity Update for CAAAC Permits/NSR/Toxics Integration Subcommittee

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Permitting

- Coal-fired power plant PSD permit review
- Petition for reconsideration of reasonable possibility
- Petition for reconsideration of definition of fugitive emissions
- Petition for reconsideration of PM_{2.5} NSR implementation rule
- Petition for reconsideration of NSR aggregation policy interpretation

Permitting (cont.)

- Petition for reconsideration of ethanol production major source threshold
- Flexible Permits Rule under review
- Final rule establishing $PM_{2.5}$ PSD increments
- Final rule for Tribal NSR programs
- WI and OH NSR SIPs – reconsider WI? allow OH to become effective?
- 1-hour ozone anti-backsliding for NSR proposal

Status of PM NAAQS

- EPA revisions to the PM NAAQS (Oct 17, 2006)
 - Revised level of 24-hour $PM_{2.5}$ standard to $35 \mu\text{g}/\text{m}^3$
 - Retained level of annual $PM_{2.5}$ standard at $15 \mu\text{g}/\text{m}^3$
 - CASAC recommended a standard in the range of 13-14 $\mu\text{g}/\text{m}^3$
 - Retained 24-hour PM_{10} standard to provide protection against short-term exposures to thoracic coarse particles and revoked annual PM_{10} standard
 - Secondary standards set identical to primary standards
 - CASAC recommended a sub-daily $PM_{2.5}$ standard to address effects associated with visibility impairment

Litigation on 2006 PM NAAQS: D.C. Circuit Court Decision Issued February 24, 2009

- Fine Particles
 - Remanded PM_{2.5} annual primary standard and secondary standards for reconsideration
 - Court concluded EPA failed to adequately explain why annual standard is sufficient to protect public health with an adequate margin of safety
 - Court concluded decision to set secondary standards identical to primary standards was unreasonable and contrary to the law
 - Primary 24-hour PM_{2.5} standard not challenged
- Coarse Particles
 - Upheld decisions to retain 24-hour PM₁₀ standard and revoke annual PM₁₀ standard
 - Court concluded EPA reasonably explained decision to regulate all coarse PM (including nonurban PM) and to use PM₁₀ as indicator for coarse PM

PM NAAQS: Next Steps

- EPA is evaluating options for responding to remand on PM_{2.5} standards
- Current PM NAAQS review already well underway
 - CASAC review of first draft Integrated Science Assessment (ISA) – April 1-2, 2009
 - CASAC consultation for Risk/Exposure Assessment (REA) planning documents – April 2, 2009
 - Current schedule:
 - Final ISA – December 2009
 - Final REA – July 2010
 - Proposed rule – January 2011
 - Final rule – October 2011
 - Schedule subject to change pending decisions on how to respond to remand

Ozone NAAQS

- EPA issued revisions to Ozone NAAQS – March 27, 2008
 - Revised level of primary 8-hour ozone standard to 0.075 ppm
 - CASAC recommended a level between 0.060 - 0.070 ppm
 - Revised secondary standard to be identical to primary standard
 - CASAC recommended a distinct secondary standard based on a seasonal weighted average
- Current status of litigation
 - Petitioners' briefs were scheduled to be filed April 1, 2009
 - EPA requested “extension to allow time for appropriate EPA officials that are appointed by the new Administration to review the Ozone NAAQS Rule to determine whether the standards established in the Ozone NAAQS Rule should be maintained, modified or otherwise reconsidered.”
 - EPA also requested that “it be directed to notify the Court and the Parties within 180 days of the Court’s order vacating the briefing schedule of the actions the Agency has taken or intends to take, if any, with regard to the Ozone NAAQS Rule, and the anticipated time frame for any such actions.”
 - Court granted EPA’s request on March 10, 2009

Looking Forward - National Ambient Air Quality Standards Review Schedule

NAAQS Pollutant	Proposal	Final
NO₂ Primary*	Jun 2009	Jan 2010
SO₂ Primary*	Nov 2009	Jun 2010
NO_x/SO_x Secondary*	Feb 2010	Oct 2010
CO*	Oct 2010	May 2011
PM**	Jan 2011	Oct 2011
Ozone**	Jun 2012	Mar 2013
Lead	Jan 2013	Oct 2013

***Court ordered deadline**

****Current Schedules do not reflect possible revised schedules reflecting options for reconsideration**

Status of PM_{2.5} SIP Submittals

- For 39 nonattainment areas, 58 plans were due by April 5, 2008 to meet the 1997 PM_{2.5} standards
 - Clean air determinations for Harrisburg, PA and Washington, DC-MD-VA
 - Other States may qualify for clean air determination based on 2008 data
- A number of States have submitted final attainment demonstrations for some of the areas
 - EPA has not made findings of failure to submit
 - SIP submittal actions and findings on hold until direction from new EPA management
- Regional Offices are working with their States for the remaining areas to receive complete and approvable SIPs
- We are working with our Regional Offices to ensure consistency in reviewing and acting on SIPs especially on key issues (attainment demos, RACT/RACM, contingency measures)

Status of 8-hr Ozone SIPs

- For 26 nonattainment areas, 36 State portions due by June 2007 to meet the 1997 8-hour ozone standards
- 25 final attainment demonstrations submitted
 - Final approval for Dallas-Fort Worth, TX
 - Proposed disapprovals for Philadelphia, NY City & Baltimore (under review)
 - NC/SC withdrew Charlotte SIPs
- 6 failure to submit findings – sanction clocks running
 - Clean data determination has stayed Jefferson Co., NY sanction clock
 - Findings made for NC & SC withdrawing Charlotte SIP (under review)
- Other actions:
 - 2 clean data determinations
 - 1 final redesignation
 - 4 reclassifications requested instead of submitting SIP

Status of 110(a)(2) Infrastructure SIPs

- There are 12 elements required for infrastructure SIPs
- Findings of completeness/incompleteness were effective on March 24, 2008 for 1997 8-hour ozone and November 21, 2008 for 1997 PM_{2.5}
- Three 110(a)(2) SIPs are due soon
 - 2006 24-hr PM_{2.5} NAAQS: October 2009
 - 2008 0.075 ppm Ozone NAAQS: March 2011
 - 2008 Lead NAAQS: November 2011

Regional Haze SIPs

Final SIPs awaiting EPA action: 15 out of 53 total

State	Region	RPO	Submittal Date
Alabama	4	VISTAS	7/15/2008
Albuquerque	6	WRAP	9/11/2008
Arkansas	6	CENRAP	9/24/2008
California	9	WRAP	3/17/2009
Delaware	3	MANE-VU	9/26/2008
Iowa	7	CENRAP	3/25/2008
Kentucky	4	VISTAS	6/25/2008
Louisiana	6	CENRAP	6/13/2008
Mississippi	4	VISTAS	9/24/2008
Missouri	7	CENRAP	3/13/2008
North Carolina	4	VISTAS	12/17/2007
South Carolina	4	VISTAS	12/17/2007
Tennessee	4	VISTAS	4/4/2008
Utah	8	WRAP	9/16/2008
West Virginia	3	VISTAS	7/8/2008
Yellow=CAIR state			Blue=met deadline

Regional Haze SIPs

Outstanding/Late SIPs: 38 out of 53 total – received findings of failure to submit

State (<i>yellow=CAIR state</i>)	Region	RPO	No. of Class I areas	Date Expected
Connecticut	1	MANE-VU	0	Sept. 09
Maine	1	MANE-VU	4	Nov. 09
Massachusetts	1	MANE-VU	0	Mid 09
New Hampshire	1	MANE-VU	2	Mid 09
Rhode Island	1	MANE-VU	0	July 09
Vermont	1	MANE-VU	1	Mid 09
New Jersey	2	MANE-VU	1	Late 09
New York	2	MANE-VU	0	Late 09
Virgin Islands	2	n/a	1	Late 09
DC	3	MANE-VU	0	Mid 09
Maryland	3	MANE-VU	0	July 09
Pennsylvania	3	MANE-VU	0	Mid 09
Virginia	3	VISTAS	2	Mid 09
Florida	4	VISTAS	3	Sept. 09
Georgia	4	VISTAS	3	Nov. 09
Illinois	5	MWRPO	0	Mid 09
Michigan	5	MWRPO	2	Mid 09
Indiana	5	MWRPO	0	July 09
Minnesota	5	CENRAP	2	Mid 09

State	Region	RPO	No. of Class I areas	Date Expected
Ohio	5	MWRPO	0	Late 09
Wisconsin	5	MWRPO	0	Late 09
New Mexico	6	WRAP	9	Late 09
Oklahoma	6	CENRAP	1	Mid 09
Texas	6	CENRAP	2	July 09
Kansas	7	CENRAP	0	Mid 09
Nebraska	7	CENRAP	0	Mid 09
Colorado	8	WRAP	12	Late 09
Montana	8	WRAP	12	Late 09
North Dakota	8	WRAP	2	Late 09
South Dakota	8	WRAP	2	Mid 09
Wyoming	8	WRAP	7	July 09
Arizona	9	WRAP	12	Mid 09
Hawaii	9	WRAP	2	Mid 09
Nevada	9	WRAP	1	Late 09
Alaska	10	WRAP	4	Late 09
Idaho	10	WRAP	5	Late 09
Oregon	10	WRAP	12	Mid 09
Washington	10	WRAP	0	July 09

Issues for Regional Haze SIPs

- Findings of failure to submit issued January 15, 2009; FIP clock expires January 15, 2011
- No approvals or disapprovals of submitted SIPs have been issued to date
- One state – Michigan – has received a notice of incompleteness (Indiana is expected soon) and Region 5 has asked that the SIPs be revised
- CAIR uncertainty, among other things, in the East has caused delays in some SIP submittals and approvals of those SIPs that have been submitted
 - Uncertainty primarily due reliance on the CAIR to meet the BART requirements and reasonable progress requirements
- In the West, only 2 SIPs (plus Albuquerque) are final
 - Utah (309 SIP) and California

Clean Air Interstate Rule

- On appeal, the D.C. Circuit Court remanded, rather than vacated, the CAIR. EPA represented to the Court an approximate schedule of 2 years to complete a revised rulemaking.
- Granting stay to Minnesota sources based on Court's decision.
- CAIR uncertainty, among other things, in the East has caused additional delays in submission of some PM_{2.5} attainment SIPs and Regional Haze/BART SIPs. It has also caused delays in EPA's review of those SIPs that have been submitted.
- Working to develop a replacement rule for the CAIR that is consistent with the Court decision. Will need to address issues on:
 - Emissions trading
 - Attainment and maintenance of standards
 - PM_{2.5} and ozone standards (1997, 2006, 2008)
 - Budget and/or allowance allocations
 - Significant contribution and remedy

NC and DE Section 126 Petitions

- EPA asked for and received a voluntary remand of EPA's contested denial of NC's section 126 petition on March 5, 2009
 - The Court order directs the Agency to conduct an “expeditious” reconsideration of the petition but does not set a deadline for a decision.
 - For purposes of ozone (Charlotte), NC named EGUs in 5 states of Maryland, Virginia, Tennessee, South Carolina, and Georgia.
 - For purposes of PM_{2.5} (maintenance), NC named EGUs in 10 states of Pennsylvania, Ohio, Indiana, West Virginia, Kentucky, Virginia, Tennessee, South Carolina, Georgia, and Alabama.
- Delaware's Section 126 petition received December 18, 2008.
 - Delaware seeks emissions reductions from large EGUs to reduce the contributions from their emissions to PM_{2.5} and ozone problems in Delaware.
 - Delaware names EGUs in the 9 states of Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia, and West Virginia.
 - EPA's action deadline extended 6 months to August 13, 2008.

Other Actions

- PM_{2.5} Designations: under review
- PM_{2.5} AQI: The rulemaking proposal is still on hold
- Designations for 2008 Ozone NAAQS
- Fire Policy
 - Draft Policy will be circulated within EPA soon.
 - Will not be shared externally until it has been shared and reviewed by OMB and other Federal Agencies