

# **Permits/New Source Review/Toxics Subcommittee**

December 15, 2004

# Upcoming NSR Activities

- NO<sub>2</sub> Increment Remand and Agreement
- Updates
  - WESTAR PSD Increment Work
  - NSR Litigation (2002 Final Rules)
  - Equipment Replacement Provision (ERP) Reconsideration and Litigation
  - Title V Area Source Rule
  - NSR Revisions: Next Steps

# **NO2 Increments - EPA/Environmental Defense Letter – September 29, 2004**

- Identified 3 alternatives to using increment approach
  - Cap-and-trade program
  - Protection of ecosystems based on critical loads
  - State planning program for protecting and enhancing air quality in attainment areas
- Commitment to propose one or more of alternatives in a balanced way
- Proposal – February 14, 2005

# NO2 Increments

- Cap-and-trade program
  - Clean Air Interstate Rule
  - Western Cap (?)
    - Regional Haze
    - Best Available Retrofit Technology requirements
- Protection of ecosystems based on critical loads
  - Critical Loads (CL) = deposition level above which there is an adverse effect on ecosystem
  - Current status of developing science
- State planning program for protecting and enhancing air quality in attainment areas

# WESTAR Increment Work

- New Framework
  - Encourage State tracking of increment consumption and cumulative impact on AQRV protection
- Technical issues
  - Increment Modeling
    - Tiered approach
    - Short term (3-hour, 24-hour) modeling
    - Calculation of increment consumption
  - Emission inventories
    - Short term emissions (3-hour, 24-hour)
    - Baseline emission estimates

# NSR Litigation (December 2002 Rules)

- Plantwide Applicability Limits, Clean Unit Test, Pollution Control Projects, Calculation of "emissions increase."
- Court denied stay request
  - States facing January 2006 deadline for revising programs
  - Programs must be "no less stringent" than EPA rules
- Court Briefs Complete; Oral argument scheduled January 2005

# ERP Reconsideration and Litigation

- Equipment replacements that are like-for-like or functionally equivalent, are below 20 percent of the cost of the unit and do not exceed basic design parameters are routine maintenance
- ERP rule is stayed by Court
  - Pre-2003 rules and policies in effect
- EPA reviewing Reconsideration Comments
  - Legal basis
  - 20 percent cutoff
- Litigation Schedule Pending Completion of Reconsideration
  - First briefs due 90 days after EPA responds
  - EPA brief due 90 days later
  - Briefing completed 77 days after that

# Title V Area Source Rule

- Possible exemption of 6 source categories
  - Dry cleaners, halogenated solvent degreasers, chrome electroplaters, ethylene oxide sterilizers, secondary aluminum smelters, and secondary lead smelters
- Proposal January 2005

# NSR Revisions: Next Steps

- Possible NSR Revisions Ahead Include:
  - 8-hour Ozone Implementation Phase 1 reconsideration
  - 8-hour Ozone Implementation Phase 2 package
  - PM 2.5 implementation proposal
  - Interim Nonattainment NSR Rule (Appendix S)
  - NSR Reform - Debottlenecking, Aggregation, and Allowables PALs
  - Tribal NSR rule