

FACT SHEET

PREVENTION OF SIGNIFICANT DETERIORATION (PSD) AND NONATTAINMENT NEW SOURCE REVIEW (NSR): INCLUSION OF FUGITIVE EMISSIONS; ADDITIONAL STAY

Action

- On February 4, 2010, the U.S. Environmental Protection Agency (EPA) proposed to stay, for 18 additional months, the rule establishing how fugitive emissions should be treated for New Source Review permitting. The current stay will expire on March 30, 2010.
- A “stay” puts the requirements of a rule on hold for a prescribed period of time. Fugitive emissions do not reasonably pass through a stack, chimney, vent, or other similar opening.
- As alternatives, the agency is also soliciting comment on different time periods for the new stay: (1) for 12 months or (2) for 24 months.

Background

- On December 19, 2008, EPA issued a final rule revising the requirements of the major NSR programs regarding the treatment of fugitive emissions (“Fugitive Emissions Rule”). 73 FR 77882. The final rule required fugitive emissions to be included in determining whether a physical or operational change results in a major modification only for sources in industries that have been designated through rulemaking under section 302(j) of the Act. The final rule amended all portions of the major NSR program regulations: permit requirements, the PSD program, and the emission offset interpretive ruling.
- On February 17, 2009, the Natural Resources Defense Council (NRDC) submitted a petition for reconsideration of the December 2008 final rule as.
- On April 24, 2009, EPA agreed to reconsider the approach to handling fugitive emissions challenged in the petition and granted a 3-month administrative stay of the fugitive emissions rule.
- The administrative stay of the Fugitive Emissions Rule became effective on September 30, 2009. EPA put an additional 3-month stay in place from December 31, 2009 until March 31, 2010.

For More Information

- Interested parties can download information on this action from EPA's Web site at: www.epa.gov/nsr/actions.html.

- 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, or in hard copy at EPA's Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B102, 1301 Constitution Avenue, NW, Washington, DC. **Docket Number EPA-HQ-OAR-2003-0062.**
- The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742.
- For more information, call Carrie Wheeler at 919-541-9771 or email at wheeler.carrie@epa.gov or visit the NSR website at www.epa.gov/nsr.