

Concept

Revisions to the Prevention of Significant Deterioration and New Source Review Rules (541)

Reason for Action

To incorporate revisions to the prevention of significant deterioration (PSD) and new source review (NSR) rules.

Scope/Nature/Summary

On October 20, 2010 (75 FR 64864), EPA promulgated key components for making PSD permitting determinations for fine particle pollution (PM_{2.5}) - increments, significant impact levels (SILs), and a significant monitoring concentration (SMC). The Environmental Management Commission (EMC) approved the amended PSD and NSR rules on July 11, 2013. The EMC adopted in its State Implementation Plan (SIP) some provisions of this federal regulation, but not all. Specifically, through paragraphs (q) and (v) of Rule 15A NCAC 02D .0530, the EMC revised the rule to incorporate the federally required numerical PM_{2.5} increments, but not include other federally required provisions needed to implement the PM_{2.5} increments. The excluded provisions include definitions for major source baseline date, minor source baseline date, and baseline area.

On September 14, 2016 (81 FR 63107), EPA published its disapproval of North Carolina's SIP submittal. EPA concluded that NC's PSD regulations do not require the PSD sources to conduct the appropriate analyses demonstrating that emissions from proposed construction of new major stationary sources or major modifications will not cause or contribute to air quality deterioration beyond the amount allowed by the PM_{2.5} increments. Therefore, the EPA disapproved all of the PM_{2.5} increment provisions set forth in NC's SIP submittal with respect to PM_{2.5}-related changes to 15A NCAC 02D .0530 at Paragraphs (e), (q), and (v).

This disapproval triggers the requirement for EPA to promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the State corrects the deficiencies through a SIP revision and EPA approves the SIP revision before EPA promulgates such a FIP. The DAQ has developed two approaches to correct the deficiency identified by EPA in its SIP.

The first approach is to incorporate by reference the revisions to §51.165 and §51.166 of the CAA as of October 18, 2016. Those revisions include the increments and SILs in the October 20, 2010 final rule, the clarification that condensable particulate matter be included in the measurements of PM_{2.5} and PM₁₀ in the October 25, 2012 final rule, and the removal of the vacated SMC provisions in the December 9, 2013 final rule. The adoption of the e-notice provisions in the October 18, 2016 final rule is being presented as a separate concept.

The second approach is to make a demonstration to the EPA under §166(e) of the CAA, considering all approved provisions (whether already part of NC's SIP or currently submitted for approval to the EPA) under PSD or non-PSD programs, that the state does not need to adopt the increments for PM_{2.5} when these other approved provisions are looked at in totality, as they serve the purposes of §160 as effectively.

CAA §166(e) reads as follows: With respect to any air pollutant for which a national ambient air quality standard is established other than sulfur oxides or particulate matter, an area classification plan

shall not be required under this section if the implementation plan adopted by the State and submitted for the Administrator's approval or promulgated by the Administrator under section 110(c) of this title contains other provisions which when considered as a whole, the Administrator finds will carry out the purposes in CAA §160 at least as effectively as an area classification plan for such pollutant. Such other provisions referred to in the preceding sentence need not require the establishment of maximum allowable increases with respect to such pollutant for any area to which this section applies.

These amendments are being proposed in response to federal requirements.

Statutory Authority

G.S. 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(5); 143-215.107(a)(7); 143-215.108(b);