

NTAA / EPA Tribal Air Call
January 17, 2008
Conference Line (866) 299-3188
Conference Code 919 541 5624#

Meeting Minutes

Attendees:

Tribal:

Chaz Welock
Sam Kitto
Chris Horan
Kent Curtis
Brian Napont
Natalene Cumming
Lisa Riener
Kevin Greenleaf – Kootenai
Brandy Toft / Charles ?
Jerome Howell
Millie Holly
Julie Simpson
Angela Benedict-Dunn
Amy Awlish
Jill Sherman
Bob Thompson
Jeff Eaststep
Stephen Hartsfield
Bob Gruenig
Jerry Pardilla
Evaline Martinez
Joe Sieve

EPA:

Jessica Montanez
Barbara Driscoll
Darrel Harmon
Laura McKelvey
Lena (Vickey) Epps-Price
Michael Papp
Melissa McCullough
Tami Laplante

Bob Gruenig from NTAA spoke on the Climate Change Bill – Lieberman (CT) / Warner (VA) Senate Bill 2191 Climate Security Act of 2008. In August 2007, a summary came out explaining what was included in the Senate Bill 2191. In this bill, there isn't anything relative to tribes because everything is being lumped into one comprehensive bill. So, tribes need to be represented in this bill. Before this bill was introduced, tribal allowances were given to tribes and if allowances weren't used it could revert back to the State. Because of this new bill, there is no mechanism to do this yet so looking for ways to make this happen. This Bill hit Senate floor in May and was introduced in October 2007 but will not pass through Congress this year.

After Bob's discussion, there were some concerns about whether tribal leaders had been made aware of this bill. Per Bob, attempts were made through flyers, calls, emails, etc to make tribal leaders aware of this bill. He also suggested that it was very important to get Alaska leaders involved because this bill will affect that area the most. A suggestion was made to have Bob create a template/letter explaining the bill then forward to tribal leaders to tweak it and forward accordingly.

Global climate change is an important environmental issue and this legislation takes steps to address global warming and greenhouse gas emissions. If you would like to be added to the e-mail distribution for newsletters or have questions about this legislation, please contact Bob Gruenig via phone (505) 242-2175, ext 103 or email BGruenig@ntec.org. Also, more information can be found on their website at <http://ntec.org/newsAlert.htm>

Jessica Montanez reported on the status of current NSRs. See below for updates.

New Source Review (NSR) Rules Update – January 2008

| Rule Name | Brief Description | Status | Applicable Dates/Federal Register Citation | Contact Person |
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| Reasonable Possibility | <ul style="list-style-type: none"> • Rule establishes for sources and reviewing authorities the criteria for determining when recordkeeping and reporting are required for a modification that does NOT trigger major NSR. The rule also specifies the recordkeeping and reporting requirements for such sources | Final Rule | Published on Federal Register / Vol. 72, No. 245 / Friday, December 21, 2007 / page 72607 | Lisa Sutton, 919-541-3450 |
| Reconsideration of the Inclusion of Fugitive Emissions | <ul style="list-style-type: none"> • 2002 NSR Reform Rules required all sources to include “fugitive emissions” in assessing whether a proposed physical or operational change qualifies as a “major modification” that is subject to review under major NSR. • In 2003 Newmont mining sued EPA by arguing that EPA failed to conduct a rulemaking in 2002 that would list the source categories for which “fugitive emissions” must be included in determining NSR applicability. • Proposed rule states that “fugitive emissions” must be included in determining whether a physical or operational change results in a major modification only for sources in the source categories that have been designated through rulemaking as defined in Section 302(j) of the Act. This rule does not modify that list. | Proposed Rule | <p>Published on Federal Register / Vol. 72, No. 218 / Tuesday, November 13, 2007 / page 63850</p> <p>Comment Period Closed on January 14, 2007.</p> <p>Final Rule in 2009.</p> | Lynn Hutchinson, 919-541-5795 |

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| Flexible Air Permits | <ul style="list-style-type: none"> • Rule introduces the “flexible air permits” concept to both the major NSR program and the Title V program. • Under the Title V program, a “flexible air permit” would explain a facility’s operational plans and possible changes to those plans for the duration of the permit term – typically five years – as well as plans for protecting the air quality. This type of permit includes also 2 options: <ol style="list-style-type: none"> 1. Alternative Operating Scenarios (AOSs) – for example: an AOS for an existing boiler will allow the unit to switch from oil to coal (if it were previously able to do so) without a permit revision, even though the change would be subject the source to different Clean Air Act requirements. 2. Approved Replicable Methodologies (ARMs) – For example: An ARM could specify a replicable testing procedure for updating an emissions factor, rather than requiring a permit revision to accomplish its update. To be approvable, an ARM must deliver replicable results (usually numerical) when operating on the same input data. • Under the Major NSR program, a “flexible air permit” would be accomplished through a “Green Group” – a collection of emission points ducted to a common, high performing air pollution control device. The total annual emissions in the “Green Group” are protective of the NAAQS and increments. State, Tribal and Local permitting authorities retain discretion when a “Green Group” is appropriate. The permit would limit future emission growth over a 10-year period. | Proposed Rule | <p>Published on Federal Register / Vol. 72, No. 176 / Wednesday, September 12, 2007 / page 52206</p> <p>Comment Period Closed on January 14, 2007.</p> <p>Final Rule in 2009.</p> | Mike Trutna, 919-541-5345 |
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| <p>Particulate Matter 2.5 Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentrations (SMCs)</p> | <ul style="list-style-type: none"> • On October 17, 2006 EPA finalized a new NAAQS for PM_{2.5} and is now required by the Clean Air Act to determine how much of this pollutant can be emitted in areas already meeting that standard (Prevention of Significant Deterioration or PSD areas). This program establishes three thresholds of air quality and emissions to guide states in maintaining clean air. <ol style="list-style-type: none"> 1. Increments are a measure of how much of a pollutant can be added to the ambient air before the air quality will significantly deteriorate. 2. SILs are a measure of whether a source may cause or contribute to a violation of PSD increment or the NAAQS. If an individual facility projects an increase in emissions that result in ambient impacts greater than the established SIL, the permit applicant would be required to perform additional analyses to determine if those impacts will be more than the amount of the PSD increment. This analysis would combine the impact of the proposed facility when added on to all other sources in the area. 3. SMCs are thresholds that determine if a facility has to gather and submit 1-year pre-application ambient monitoring data. As part of a permit application, the applicant must conduct modeling to demonstrate the impact of proposed emissions on air quality. If modeling shows an increase in ambient concentrations of pollution by an amount less than the SMC that EPA is proposing today, the source is exempted from the monitoring data requirement. | <p>Proposed Rule</p> | <p>Published on Federal Register / Vol. 72, No. 183 / Friday, September 21, 2007 / page 54112</p> <p>Comment Period Closed on January 21, 2007.</p> <p>Final Rule in 2009.</p> | <p>Raj Rao , 919-541-5344</p> |
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| <p>Particulate Matter 2.5 NSR Rule</p> | <ul style="list-style-type: none"> • Rule that will implement the New Source Review program for the latest fine particulate matter standard (PM 2.5). | <p>Final Rule</p> | <p>Proposal of this rule is included in the Clean Air Fine Particle Implementation Rule (CAFPIR). Federal Register / Vol. 70, No. 210 / Tuesday, November 1, 2005 / page 65984</p> <p>Final rule scheduled for April 2008.</p> | <p>Raj Rao , 919-541-5344</p> |
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| Phase I Ozone Implementation | <ul style="list-style-type: none"> • On June 30, 2005 EPA took final action to reconsider how New Source Review applies in 8-hour ozone nonattainment areas. EPA determined that NSR requirements applying to large sources in nonattainment areas for the 8-hour standard are to be based on the area's classification for the 8-hour standard, not on the area's higher classification under the revoked 1-hour standard. In addition EPA determined that since the 1 - hour standard is no longer in effect, States may remove 1-hour major NSR programs from their state implementation plans. • However, on December 2006, the DC Court of Appeals determined that the action proposed on 2005 by EPA was contrary to Congressional intent and the anti-backsliding provision of section 172(e) of the Clean Air Act because when moving from one NAAQS standard to another, EPA cannot ease its control measures. • Direct final rule will reinstate the provisions that the 2005 rule eliminated. • Proposal will explain how the transition from the 1-hour to the 8-hour ozone standard might happen and will provide the opportunity for public comment. | Direct Final Rule and Proposal | <p>Invalidated Final Rule is at Federal Register / Vol. 70, No. 130 / Friday, July 8, 2005 / page 39413</p> <p>Direct Final Rule Scheduled to be completed around Spring 2008.</p> <p>Proposal schedule to be determined.</p> | David Painter, 919-541-5515 |
| Phase II Ozone Implementation | <ul style="list-style-type: none"> • Rule will give direction on the implementation of the New Source Review program due to the new ozone NAAQS. | Proposed Rule | Proposal schedule to be determined. | David Painter, 919-541-5515 |

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| Emission Increases for Electric Generating Units | <ul style="list-style-type: none"> • On October 20, 2005, EPA proposed options to change the emission increase test applicable to modifications at existing power plants from an annual to an hourly test. • On May 8, 2007, EPA proposed a supplemental proposal to the October 2005 one that recasts the proposed alternatives for the emissions increase test. | Final Rule | <p>Proposed rule on Federal Register / Vol. 70, No. 202 / Thursday, October 20, 2005 / page 61081</p> <p>Supplemental Proposal: Federal Register / Vol. 72, No. 88 / Tuesday, May 8, 2007 / page 26202</p> <p>Final rule scheduled for July 2008</p> | Lisa Sutton, 919-541-3450 |
| Refinements of Increment Modeling Procedures | <ul style="list-style-type: none"> • On June 6, 2007, EPA proposed a rule that would clarify how states and regulated sources may calculate increases in concentrations for the purposes of determining compliance with the PSD “increment.” | Final Rule | <p>Proposed rule on Federal Register / Vol. 72, No. 108 / Wednesday, June 6, 2007 / page 31372</p> <p>Final rule scheduled for October 2008</p> | Jessica Montanez, 919-541-3407 |

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| Review of New Sources and Modifications in Indian Country | <ul style="list-style-type: none"> On August 21, 2006, EPA proposed a Federal Implementation Plan (FIP) that would implement New Source Review (NSR) requirements in areas under tribal jurisdiction. In these areas, often referred to as Indian country, new or modified small industrial facilities and large industrial facilities in areas not meeting national clean air standards would be subject to air permitting requirements. | Final Rule | Proposed rule on Federal Register / Vol. 71, No. 161 / Monday, August 21, 2006 / page 48696 Final rule schedule to be determined | Jessica Montanez, 919-541-3407 |
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For more information about these rules (i.e. fact sheets, extension of comment periods, etc.) and the general NSR program, please visit: www.epa.gov/nsr

Brandy Toft from Leech Lake is having difficulty with the PM 2.5 Increment Rule. It was suggested she contact Syndi Smallwood since she has done some work on this.

There is a one day training on PSD (Prevention of Significant Deterioration) on February 21, 2008 with a half day consultation on February 22, 2008.

PM 2.5 Designations – So far 4 tribes have submitted letters: If you are sending in letters, please cc: Laura Mckelvey so she can also help to make sure they get in the docket.

| Tribe | Location |
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| Little Traverse Bay Band Of ODAWA Indians | Harbor Springs, MI Northern portion of Michigan's Lower Peninsula |
| La Jolla Band of Luiseno Indians | Pauma Valley, CA Western San Diego County? |
| Pechanga Indian Reservation | Temecula, CA Southern Riverside County bordering Sand Diego County on South. |
| Pala Band of Mission Indians | Pala, CA San Diego Air Basin |

If there are any other tribes who would like to submit letters, please do so. Barbara Driscoll is the contact for this. Her e-mail address is driscoll.barbara@epa.gov, (919) 541-1051.

SIP training in EPA Region 7 – Kansas City, KS on May 6-9, 2008. This training will be held in the EPA regional building for tribes from Region 7. Lodging will be at the Hilton Hotel in Kansas City. Questions – please contact Barbara Driscoll, driscoll.barbara@epa.gov, (919) 541-1051.

A staff paper is out on Lead NAAQS. For more information on this you can visit the NAAQS website - <http://www.epa.gov/ttn/naaqs/> or to go directly to the staff paper http://www.epa.gov/ttn/naaqs/standards/pb/data/20071101_pb_fs.pdf
The Lead NAAQS fact sheet can be found at <http://www.epa.gov/ttn/naaqs/standards/pb/fs20071204.html>
Contact person for more information is Mary Ross, phone 919-541-5170, fax 919-541-0237 or email ross.mary@epa.gov.

NTAA / NTF Conference is June 3-5, 2008 in Las Vegas, Nevada. For more information please contact Stephen Hartsfield, NTAA, 505-242-2175, ext 106 or e-mail shartsfield@ntec.org.

Next NTAA/ EPA call will be March 6th, 2008 at the same time and number.