

# New Source Review Updates

September 2022 CIBO Quarterly Meeting

Amy Marshall, PE

ALL4

[amarshall@all4inc.com](mailto:amarshall@all4inc.com)



# REMINDER - WHAT DID THE LAST ADMINISTRATION GET DONE ON NSR?

Lots of good stuff, including a flurry of activity at the end.





# NSR Reform – Some helpful actions

- Several actions taken via guidance, memos, or determinations:
  - Pruitt Memo on **projected actual emissions**
  - **Project emissions accounting (PEA)** guidance and rulemaking
  - Project aggregation reconsideration
  - Meadowbrook – common control analysis
  - Limetree – reactivation and project aggregation
  - Adjacency guidance – narrow improvement
  - Ambient air guidance – narrow improvement
  - PAL guidance – encouraged states to take flexible approaches
- NSR Corrections Rule



## What Didn't Get Done?

- ❑ Biogenic CO<sub>2</sub>.
- ❑ Begin Actual Construction Memo (guidance drafted but not finalized, controversial).
- ❑ Clarifying Guidance on RMRR (except we did have a big court case).
- ❑ Any additional guidance or rulemaking on debottlenecking, Step 2 netting, accommodated emissions.



# SO..... WHAT'S HAPPENED LATELY?

Not too much.





# NSR Happenings in the Biden Administration so Far

- ❑ Guidance rule eliminated.
- ❑ Project emissions accounting (PEA) rule – petition denied.
- ❑ John Deere memo on removing avoidance limits when a source reclassifies.
- ❑ Guidance for ozone and PM<sub>2.5</sub> modeling – model PM<sub>2.5</sub> if you trigger PSD for NO<sub>x</sub> or SO<sub>2</sub>.
- ❑ EPA BACT memo to TCEQ - what makes a BACT limit achievable, in a permit vs. actually constructed, operated, or demonstrated in practice.



## SO..... WHAT'S NEXT?

Let's get out our crystal ball.





## NSR and Fugitive Emissions

- ❑ 1980 NSR rules required sources to count fugitive emissions when determining if modification was major only if in a listed category.
- ❑ 2002 NSR rules codified inclusion of fugitive emissions for all when determining if major modification will occur.
- ❑ Industry petitioned, 2008 final rule revision – only include fugitives in major mod determination if listed.
- ❑ NRDC petitioned, rule currently stayed.
- ❑ Proposal imminent – just came out of OMB.





## Other NSR Actions Coming

- ❑ EPA is looking at improvements to the Project Emissions Accounting (PEA/project netting) rule – proposal Feb 2023.
  - Major concern is enforceability of Step 1 decreases
- ❑ EPA is looking at improvements to the Major MACT to Area (MM2A/reversal of once in, always in) rule – proposal Feb 2023.
  - Major concern is enforceability of PTE limits
- ❑ EPA looking at notice requirements for minor NSR permits – proposal spring 2023.
  - Primary concern is noticing for synthetic minor permits, hopefully scope does not expand to other types of minor permits/PBRs



## Are Other NSR Reforms in Jeopardy?

- Pruitt Memo on **projected actual emissions** – this memo is under review, EPA region IV already questioning excludable emissions and projections
- Further NSR reform not a priority for this administration (we are not likely to see those memos that didn't get finished)



## Intersection of EJ and NSR

- ❑ Environmental Justice is a key priority for current administration, several screening tools available.
- ❑ Different states taking different approaches to EJ, a few have rules, some have policies – enhanced outreach, EJ analyses.
- ❑ Some recent permit applications have been denied on EJ grounds, even if they showed all air regulatory requirements would be met.
- ❑ Increased use of Civil Rights Act to object to permit actions.
- ❑ Interaction with your neighbors prior to submittal of permit application becoming more important.



## Upcoming NAAQS Changes

- EPA is reconsidering the last administration's decision to retain the ozone NAAQS as is. EPA staff seem to be for keeping, CASAC seems to want something different.
- EPA is expected to propose lower annual and daily PM<sub>2.5</sub> NAAQS later this summer and finalize the standards next year.
  - The current annual standard is 12 ug/m<sup>3</sup> and EPA has been advised it should be lowered somewhere between 8 and 11 ug/m<sup>3</sup>.
- EPA has begun its review of the 0.15 ug/m<sup>3</sup> lead NAAQS and is expected to lower it. A lower NAAQS could affect industries that are not currently impacted.



## WHAT SHOULD I DO?

Reply hazy, try again later.





# What Should I Do Now?

- ❑ Improve your confidence in your emissions inventory.
- ❑ Are there plans for growth or expansion in the coming years? The time may be now to permit those activities (take advantage of PEA, current NAAQS, and current guidance).
- ❑ Engage with the community now, plan for additional outreach for major projects, ask how your agency will take EJ into account in permitting, how will they consider community small sensor data? Think about who on your team is a good communicator.
- ❑ Understand geographic impacts – what are the issues your region is facing that could prompt state-specific actions?
- ❑ Engage with your industry association and professional associations to stay up to date and participate in advocacy.



**Amy Marshall, PE**  
**amarshall@all4inc.com**  
**984-777-3073 o**  
**919-796-3950 c**

**[www.all4inc.com](http://www.all4inc.com)**