

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA-HQ-OAR- 2003-0062; FRL-]

RIN 2060-AN86

Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}) – Notice of Action Denying Petition for Reconsideration and Denying Request for Administrative Stay

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of action denying petition for reconsideration and request for administrative stay.

SUMMARY: EPA is providing notice that it has responded to a petition for reconsideration and a request for an administrative stay of certain provisions of the final rule, “Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}),” published May 16, 2008. The final rule set forth provisions defining the major source threshold, significant emissions rate, and offset ratios for PM_{2.5}, interpollutant trading for offsets, and applicability of NSR to PM_{2.5} precursors. On July 15, 2008, EPA received a petition for reconsideration pursuant to section 307(d)(7)(B) of the Clean Air Act (CAA) from the Natural Resources Defense Council (NRDC) and Sierra Club (SC). The petition also requested that EPA stay implementation of certain provisions of the final rule pending reconsideration of the rule.

The petition for reconsideration and request for administrative stay can be found in the rulemaking docket under Docket ID No. EPA-HQ-OAR-2003-0062. The EPA considered the petition for reconsideration and request for an administrative stay, along with information contained in the rulemaking docket, in reaching a decision on both the petition and request for a

stay. The EPA Administrator Stephen L. Johnson denied both the petition for reconsideration and request for stay in a letter to the petitioners dated January 14, 2009. The letter documents EPA’s reasons for the denial and can be found in the rulemaking docket.

FOR FURTHER INFORMATION CONTACT: Mr. Dan deRoeck, Air Quality Policy Division, (C 504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711; telephone number: (919) 541-5593; or e-mail address: deroeck.dan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. How Can I Get Copies of This Document and Other Related Information?

This Federal Register notice, the petition for reconsideration, and the letter denying the petition for reconsideration and request for an administrative stay during the reconsideration are available in the docket that EPA has established for the “Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}),” rulemaking under Docket ID No. EPA-HQ-OAR-2003-0062. The table below identifies the petitioner, the date EPA received the petition, the document identification number for the petition, the date of EPA’s response, and the document identification number for EPA’s response.

Petitioner	Date of petition to EPA	Petition: Document No. in docket	Date of EPA response	EPA response: Document No. in docket
National Resources Defense Council and Sierra Club.....	7/15/2008	- 0279.1	1/14/2009	-0280

Note that all document numbers listed in the table are in the form of “EPA-HQ-OAR-2003-0062-xxxx.

All documents in the docket are listed on the <http://www.regulations.gov> Web Site.

Although listed in the index, some information may not be publicly available, i.e., confidential

business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Docket ID No. EPA-HQ-OAR-2003-0062, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. 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 EPA Docket Center is (202) 566-1742.

In addition to being available in the docket, an electronic copy of this notice of EPA's decision denying the NRDC and SC petition for reconsideration and request for a stay of the rule pending reconsideration and of EPA's response letter outlining reasons for the denial will also be available on the World Wide Web. Following signature by the Principal Deputy Assistant Administrator, Office of Air and Radiation, a copy of this notice will be posted on EPA's New Source Review Web site, under Regulations & Standards, at <http://www.epa.gov/nsr>.

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II. Judicial Review

Under CAA section 307(b), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Dated:

Robert J. Meyers,
Principal Deputy Assistant Administrator, Office of Air and Radiation.