



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 24 2009

THE ADMINISTRATOR

Mr. John Walke
Clean Air Director
Natural Resources Defense Council
1200 New York Avenue, NW, Suite 400
Washington, D.C. 20005-3928

Dear Mr. Walke:

On February 17, 2009, the U.S. Environmental Protection Agency (EPA) received a letter from the Natural Resources Defense Council (NRDC) regarding the final rule "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions" (73 Fed. Reg. 77,882 (Jan. 2009)). In the letter, NRDC petitioned EPA to:

- (1) Reconsider the final rule "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions" (Fugitive Emissions Rule);
- (2) Administratively stay the Fugitive Emissions Rule for three months;
- (3) Announce that EPA does not intend to require states to submit State Implementation Plan (SIP) revisions to adopt the Fugitive Emissions Rule, and that states may not implement the Fugitive Emission Rule changes through mere "public announcement" that the state accepts those changes by interpretation;
- (4) Convene a public notice-and-comment period following reconsideration of the final rule; and
- (5) Following such comment period, or even in the absence of such comment period, withdraw and abandon the final rule.

The NRDC requested that EPA reconsider the rule under the authority in the Clean Air Act (CAA), Sec. 307(d)(7)(B). 42 U.S.C. 7607(d)(7)(B). I believe that NRDC's request meets the requirements for reconsideration of the rule. Therefore, pursuant to CAA, Sec. 307(d)(7)(B), I grant NRDC's request for reconsideration of the Fugitive Emissions Rule. EPA will publish in the near future a Federal Register notice addressing the specific issues for which we are granting reconsideration.

NRDC also requested that EPA administratively stay the Fugitive Emissions Rule for three months. In order to minimize confusion about the availability of these provisions for adoption by states and which provisions apply in the interim, I hereby grant, pursuant to CAA, Sec. 307(d)(7)(B), a stay of the effectiveness of the Fugitives Emissions Rule for a period of three months from the date of this letter.

As for the remaining three requests, EPA will consider the appropriateness of each request during the reconsideration period of the rule and will notify you and the regulated community of its decisions on the request as soon as practicable.

I appreciate your comments and interest in this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", with a long horizontal flourish extending to the right.

Lisa P. Jackson