

The Changing World of Federal New Source Review

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Environmental Subgroup
Integrated Safety Management
Working Group

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All opinions are the presenter's & do not reflect the
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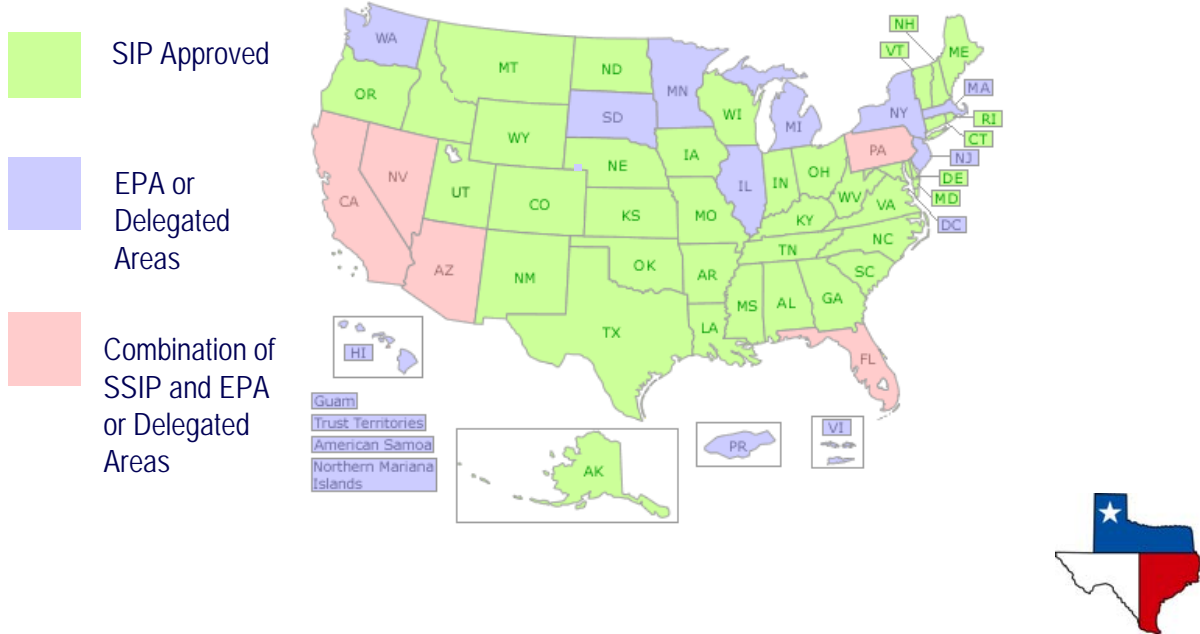
Survey

- Is your site in a Non-Attainment Area?
- Is your site a 'listed' Major Source?
- Is your site a Major Source?
- Does your site have a PSD or NA/NSR permit?
- Do you think that Air Quality Regulations are confusing?



Who is in the Audience

Prevention of Significant Deterioration (PSD) Permit Program Status March 2004



SIP approved means that the states have developed regulations, approved by EPA and directly issue PSD permits.

EPA or delegated areas are states where the states may perform much of the review of a permit application, but EPA still actually issues the permit.

Combination states have a mix – Generally local/regional authorities that are approved to directly issue the permit while the state and EPA manage the permitting for the remainder of the state.

Terminology

- ❑ **PSD:** Prevention of Significant Deterioration. Implemented in the 1977 amendments to the Federal Clean Air Act, when Non-Attainment didn't go away.
- ❑ **Non-Attainment Area:** an area, initially determined by computer simulation, later by actual ambient air monitoring, as not achieving one of the 6 national ambient air quality standards (NAAQS).



The 1970 Clean Air Act assumed that all non-attainment areas would be in attainment by the time the Act would be re-authorized. AT the same time, the intent was not to halt economic growth in the areas that needed to improve the air quality. EPA had provisions for permitting large emission sources in those areas.

The EPA was sued because their original regulations did not include provisions to protect the air quality in the areas where the NAAQS were either proven as being met, or could not be proven as being violated.

Terminology

- ❑ **Major Stationary Sources:** In a non-attainment area, any stationary pollutant source with *potential to emit* more than 100 tons per year is considered a major stationary source. In PSD areas the cutoff level may be either 100 or 250 tons, depending upon the source.
- ❑ **Major Modification:** Modifications of major stationary sources of emissions that may trigger Prevention of Significant Deterioration and New Source Review permitting



Note the similarity (TG) for major sources here, and in Title V – Federal Operating Permit.

The determination of which cut-off level applies for Major Sources is pollutant specific, and source-specific (28 listed categories).

Note that a Major Modification can ONLY happen at a Major Source. If you have a modification that makes your minor source a Major source, that change itself is not subject to PSD/NA-NSR permitting.

Finally: note that classification is dependent on PTE – the design capacity of a source to emit.

Prevention of Significant Deterioration (PSD) Basic Information

- Prevention of Significant Deterioration (PSD) applies to new major sources or major modifications at existing sources for pollutants where the area the source is located is in attainment or unclassifiable with the National Ambient Air Quality Standards (NAAQS). PSD permitting requires:
 1. installation of the "Best Available Control Technology (BACT)";
 2. an air quality analysis;
 3. an additional impacts analysis; and
 4. public involvement.



‘Netting’ – using emission reductions in other processes, can aid a facility avoid triggering this permitting.

Additional impacts may involve aspects not related directly to air quality: jobs, esthetic values (visibility)

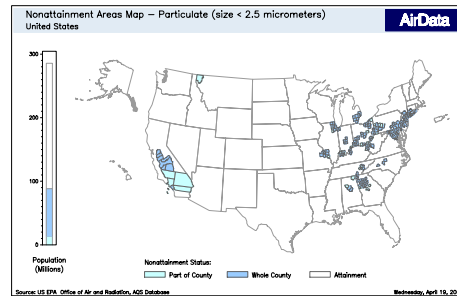
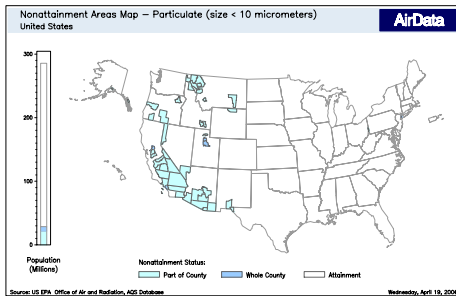
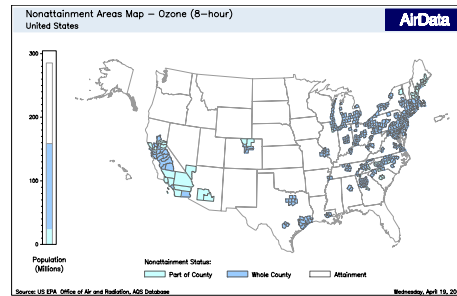
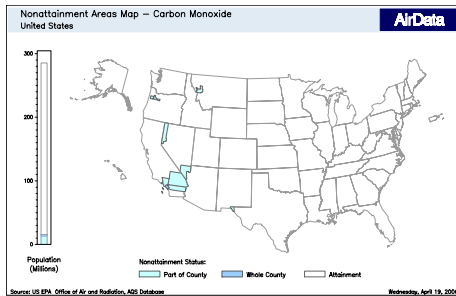
Non-attainment NSR Basic Information

- Non-attainment NSR applies to new major sources or major modifications at existing sources for pollutants where the area the source is located is non-attainment.
- All non-attainment NSR programs have to require:
 - (1) the installation of the lowest achievable emission rate (LAER),
 - (2) emission offsets, and
 - (3) opportunity for public involvement.



Offsets are required for the same contaminant, for the same, or nearly the same, geographic area.

Non-Attainment Areas



Note:

There are no Non-Attainment Areas for the 1-hour Ozone standard at this time

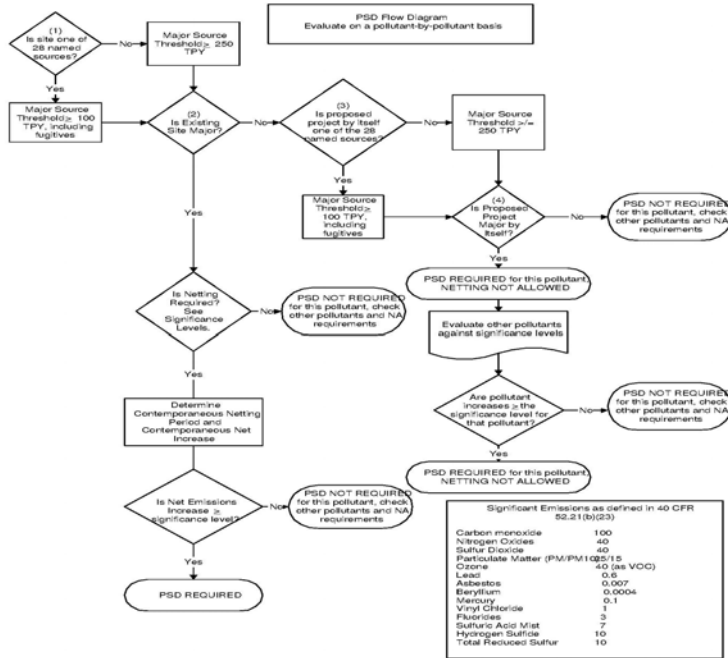
The change from PM-10 to PM 2.5 significantly increases the number of non-attainment areas, especially in the East.

Consider

- A modification at a facility can trigger both PSD and NA/NSR – if the facility is in a non-attainment area, it is major, and the modification will emit a significant increase of a criteria pollutant for which the area is in attainment.
- Modifications and Maintenance have been the most significant bases for litigation.
 - What Maintenance is ‘Routine’?
 - Is Routine determined industry sector or by site?
 - What parameters can be used to establish ‘routine’?

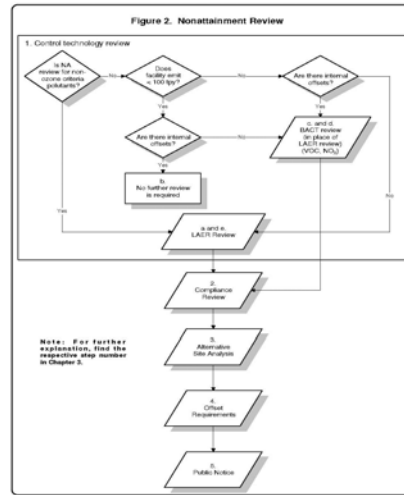
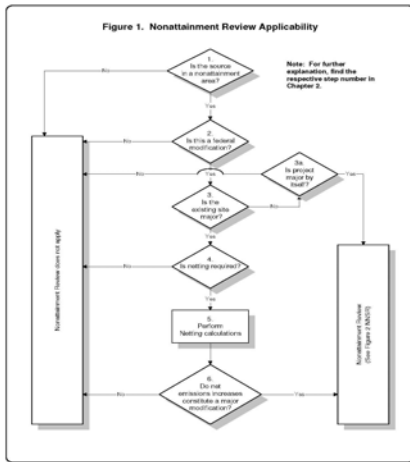


Court decisions have been split over the last two issues – significantly for the Electric Generation Sector of the economy, which operates very large boiler/generator units. It is possible that the Supreme Court could be asked to get involved in this matter.



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TCEQ - RG365 (January 2002)
 Guidance - This guidance document is for use by sources subject to Air Permits Division and may be revised periodically. [ADG-5364 v-1] Draft Page 4 of 63

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What has happened?

- ❑ Nation-wide consistency of interpretation, due to Federal Court actions
 - State of NY v USEPA – vacated entirely proposed regulations nation-wide (DC District Court)
 - US v Duke Energy Corp: what emission rates need to be considered (hourly/annual; Potential/Actual): But only in the jurisdiction of that court (4th Circuit)
- ❑ Requirements that provisions must be “federally enforceable” changing to “Enforceable as a Practical Matter”
- ❑ What constitutes a “significant Modification”
- ❑ Please note: These are matters for each site to investigate for their state or EPA Region.



What does this mean?

- ❑ Sources subject to NA/NSR or PSD (or both) must coordinate projects that may have operational air emissions continuously through the life of the project, if they want to stay on schedule.
 - Some permits can take 1 year to obtain; others 3+ years (just from time of submittal of application). Failure to have a permit in hand at the right time can cripple a project.
- ❑ Enforcement will not be consistent, because the interpretation of the rules depends on jurisdiction.
- ❑ There is a possibility that the Supreme Court will accept a case for review in the near future.

