How EPA and New EPA Regulations Will Affect Texas Businesses.

February 11, 2016

Jeff Holmstead
Major Issues

- New Ozone Standard
- Increased EPA Oversight of Permitting
- Title V Permit Petitions
- Enhanced EPA Oversight and Enforcement
  - SSM
  - IR Cameras
  - RMPs
  - NSR
### Background – New Ozone Standard

<table>
<thead>
<tr>
<th>Year</th>
<th>Level</th>
<th>Averaging Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1979</td>
<td>120 ppb</td>
<td>1-hour</td>
</tr>
<tr>
<td>1997</td>
<td>84 ppb</td>
<td>8-hour</td>
</tr>
<tr>
<td>2008</td>
<td>75 ppb</td>
<td>8-hour</td>
</tr>
<tr>
<td>2015</td>
<td>70 ppb</td>
<td>8-hour</td>
</tr>
</tbody>
</table>
Background – New Ozone Standard

Projected 8-Hour Ozone Nonattainment Areas

Source: http://www.energymorrow.org/blog/2015/10/02/epa-fumbles-on-unneeded-ozone-regs
## Implementation Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Milestone</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 1, 2015</td>
<td>Final rule</td>
</tr>
<tr>
<td>December 28, 2015</td>
<td>Effective date</td>
</tr>
<tr>
<td>October 1, 2016</td>
<td>State nonattainment area recommendations due to EPA</td>
</tr>
<tr>
<td>June 1, 2017</td>
<td>EPA response to state area recommendations</td>
</tr>
<tr>
<td>October 1, 2017</td>
<td>EPA final nonattainment area designations</td>
</tr>
<tr>
<td>October 1, 2018</td>
<td>State infrastructure and transport SIPs due</td>
</tr>
<tr>
<td>2020 – 2021</td>
<td>State attainment plans due</td>
</tr>
</tbody>
</table>

**Will EPA meet the designation deadline?**
Regulatory Impacts for Nonattainment Areas

• Transportation Conformity Challenges
• General Conformity Challenges
• Inspection/Maintenance (I/M) Program
• Reasonably Available Control Technology (RACT)
• Beyond RACT
  • Emissions Specifications for Attainment Demonstration (ESADs)
• Nonattainment New Source Review
  • Lower federal new source review thresholds for major sources
• Other regulatory requirements necessary to reach attainment
Permitting Implications

Areas Currently Designated Nonattainment under the 2008 Ozone Standard that Will Remain Nonattainment Areas

• No real change – unless classification changes
• Nonattainment New Source Review
  • Lower federal new source review triggers for major sources
  • Lowest Achievable Emission Rate (LAER)
• Offsets
• Availability and cost of offsets
Permitting Implications

Attainment Areas That Will Remain Attainment Areas under the 2015 Ozone Standard

• Prevention of Significant Deterioration
  • More difficult to demonstrate that a source will not cause or contribute to an exceedance of the NAAQS
• Modeling demonstration
• EPA memorandum / proposed approach (June 30, 2015)
  • Model Emission Rates for Precursors (MERPS) – *not yet finalized*
  • Significant Impact Level (SIL) – *not yet finalized*
  • Tier 1 and Tier 2 demonstrations
• PSD offsets supported by modeling?
Permitting Implications

Areas with Ozone Levels Above 70 ppb But Not Yet Designated Nonattainment under the 2015 Ozone Standard

• Prevention of Significant Deterioration – until redesignation
  • How will an applicant demonstrate that a source will not cause or contribute to an exceedance of the NAAQS if ambient concentrations exceed 70 ppb?
  • Grandfathering under the Final Rule – limited applicability

• Modeling demonstration

• EPA memorandum / proposed approach (June 30, 2015)
  • Model Emission Rates for Precursors (MERPS) – not yet finalized
  • Significant Impact Level (SIL) – not yet finalized
  • Tier 1 and Tier 2 demonstrations

• PSD offsets supported by modeling?

• Nonattainment New Source Review – upon redesignation
Title V Permit Petitions

• Second Guessing of State Permitting Decisions
• Imposition of New Monitoring and Recordkeeping Requirements
• Challenges to Long-Standing SSM provisions
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Questions?

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