

US EPA ARCHIVE DOCUMENT

Proposed "SIP Fix" Rulemaking for PSD Permitting for Greenhouse Gas Emissions



Webinar for State, Local, and
Tribal Air Agencies
September 23, 2010

Why is this rulemaking needed?



- To allow for GHG permitting in States whose SIP-approved PSD programs are inadequate to authorize PSD permitting for GHG, such as a program that:
 - Does not include GHG in its list of regulated pollutants
 - Applies EPA's broad definition of "regulated NSR pollutants" as of a specific date
 - Explicitly excludes GHG
- The SIP Call proposal lists 15 PSD programs in 13 States that appear to lack GHG permitting authority



Goals of this rulemaking

- To establish legal authority in those States where neither EPA nor the State has authority to issue a PSD permit to GHG-emitting sources
- To assure that States will have PSD permitting authority for GHG-emitting sources on January 2, 2011
- To avoid or at least minimize the possibility of an effective construction ban in States that lack authority to permit GHG
 - In States with a SIP inadequacy, neither the State nor EPA will have the authority to issue PSD permits for GHG sources until either the SIP is revised or a FIP is imposed



GHG SIP Fix rulemaking path

1. **SIP Call** – Proposal and final
 - Proposed in August 2010 (published in FR 9/2/10)
 - Final to be signed and announced in early December 2010 (projecting 12/1/10)
2. **Finding of failure to submit** – Done by letter to the State, then announced in a FR notice
 - For States that ask for earliest SIP submittal deadline, the final finding of failure to submit will be made in late December (projecting 12/22/10)
3. **FIP** – Proposal and final
 - Proposed in August 2010 (published in FR 9/2/10)
 - Final to be signed and announced in late December 2010 (projecting 12/22/10)



30-day letters from States

- Under the SIP Call proposal, EPA requests a response letter from each State for which we proposed a SIP Call, by October 4, 2010 (which is 30 days after FR publication)
- EPA requests a similar “30-day letter” response from any State for which we did not propose a SIP Call, if the State’s SIP-approved PSD program does not apply to GHG-emitting sources



30-day letters from States

- In its 30-day letter to the appropriate EPA Region, each responding State is asked to:
 1. Advise whether the State needs to be added to or removed from our “A” list for final SIP Call, providing justification
 2. Advise whether the State has identified some general permitting authority that allows the State to issue GHG permits
 3. Advise EPA of an acceptable SIP submittal deadline that EPA will then specify when finalizing the SIP Call for the State

Which States will be SIP-called in 2010?



- The SIP Call proposal lists 15 PSD programs in 13 States that appear to lack GHG permitting authority
- EPA's basis for the proposed list is presented in our Technical Support Document for the SIP Call proposal
 - See rulemaking docket EPA-HQ-OAR-2010-0107, item 0038
- The list of States for which we finalize the SIP Call may differ from the proposed list

Which States will not be SIP-called in 2010?

- EPA will not (and cannot) finalize a SIP Call for a State in December 2010 if the State:
 - Demonstrates to EPA that it finds general authority to issue GHG permits meeting federal requirements; and/or
 - Submits a revised PSD rule for SIP approval prior to December 1, 2010
- Pursuant to the CAA, EPA cannot impose a FIP for GHG permitting in a State unless EPA first:
 - Issues a SIP Call; and
 - Makes a finding that the State failed to submit a revised rule for EPA's approval by the specified SIP submittal deadline

How States can avoid an effective construction ban

Two options for States to avoid an effective construction ban

- Option 1: State submits SIP revision to authorize permitting of GHG and EPA approves SIP revision by January 2, 2011
 - State changes its State laws to enable permitting of GHG as soon as possible
 - State submits SIP revision to EPA as soon as possible
 - EPA must approve SIP revision before January 2, 2011

How States can avoid an effective construction ban

- Option 2: State should consider using this option where it has concerns about obtaining approval of SIP revision by January 2, 2011
 - State changes its State laws to enable permitting of GHG as soon as possible
 - State requests friendly FIP from EPA
 - EPA promulgates FIP by January 2, 2011
 - State requests delegation of authority from EPA to State to permit GHG
 - EPA delegates authority to permit GHG to State
 - State submits SIP revision to authorize GHG PSD permitting as soon as possible after January 2, 2011
 - EPA takes final action on GHG PSD SIP revision as soon as possible

Comment period for this rulemaking



- The 30-day letters requested of States in our SIP Call proposal are due at the end of the comment period – October 4, 2010
- Comment period for the FIP proposal ends October 14, 2010 (which is 30 days after the public hearing held on September 14, 2010)



For more information

- Search this rulemaking's official docket, the online repository for supporting documents and public comments:
 - Docket ID No. EPA-HQ-OAR-2010-0107, within www.regulations.gov
- Visit EPA's New Source Review website:
 - www.epa.gov/nsr
- Contact:
 - Lisa Sutton, New Source Review Group, Air Quality Policy Division, Office of Air Quality Planning and Standards, email sutton.lisa@epa.gov, telephone (919) 541-3450