



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

THE ADMINISTRATOR

APR 24 2009

Mr. Paul R. Cort  
Earthjustice  
426 17<sup>th</sup> Street, 5<sup>th</sup> Floor  
Oakland, California 94612

Dear Mr. Cort:

The U.S. Environmental Protection Agency (EPA) has considered the petition you submitted on February 10, 2009, on behalf of the Sierra Club and the National Resources Defense Council asking the Agency to reconsider:

- specific provisions in the final EPA rule entitled Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>), 73 Fed. Reg. 28321 (May 16, 2008); and
- the January 14, 2009 letter from then Administrator Stephen L. Johnson denying your July 15, 2008 petition for reconsideration of this rule.

The specific provisions of the May 16, 2008 rule for which you have requested EPA reconsideration include (1) the transition schedule and interim requirements for the prevention of significant deterioration (PSD) programs in SIP-approved states; (2) the grandfathering provision concerning the continued use of the PM<sub>10</sub> Surrogacy Policy in the federal PSD regulations at 40 CFR 52.21(i)(1)(xi); (3) the transition period for addressing condensable particulate matter emissions; and (4) the preferred interpollutant trading ratios under the nonattainment area NSR program.

Under the authority of section 307(d)(7)(B) of the Clean Air Act, EPA grants the February 10 petition for reconsideration in order to allow for public comment on each of the four issues raised in your petition. To respond to your February 10 petition, the Agency plans to publish a notice of proposed rulemaking in the Federal Register in the near future. As part of this notice, the Agency intends to propose to repeal the grandfathering provision on the grounds that it was adopted without prior public notice and is no longer substantially justified in light of the resolution of the technical issues with respect to PM<sub>2.5</sub> monitoring, emissions estimation, and air quality modeling that led to the PM<sub>10</sub> Surrogacy Policy in 1997. At this time, the Agency has not determined any specific action to be proposed concerning the other three issues raised in your petition.

Further, under the authority granted by section 307(d)(7)(B) of the Clean Air Act, I hereby stay 40 CFR 52.21(i)(1)(xi) (the grandfathering provision under the federal PSD program) for three months pending reconsideration. A stay pending reconsideration is justified for the reasons discussed above, that this provision was adopted without prior public notice and is no longer substantially justified in light of the resolution of the technical issues with respect to PM<sub>2.5</sub> monitoring, emissions estimation, and air quality modeling that led to the PM<sub>10</sub> Surrogacy Policy in 1997.

We 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

cc: David S. Baron, Earthjustice