



Connecticut Department of Energy and Environmental Protection



Potential Impacts of *EME Homer City v. EPA* on Connecticut Air Quality Plans

9/13/12

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CSAPR vacated

- On 8/21/12, the DC Circuit Court of Appeals issued a decision vacating and remanding the Transport Rule and the Transport Rule FIPs to EPA.
- EPA must continue administering CAIR pending the promulgation of a valid replacement.



CAIR continues

- As EPA is administering the CAIR program, DEEP will continue to implement the program established under RCOSA section 22a-174-22c. We await direction from EPA as to the status of RCOSA section 22a-174-22d.
- There is no word yet as to when 2013 CAIR allocations are due to EPA (2013 allocations were due to EPA by October 31, 2009 pursuant to RCOSA section 22a-174-22c, but were not submitted due to the CAIR remand).



Regional Haze (RH) SIP implications

- In 2005 EPA determined that CAIR was better- than-BART.
- In its November 2009 RH SIP, DEEP relied on CAIR as part of its demonstration that existing NOx regulatory programs meet EPA's alternative measure requirements, as the existing programs result in greater reasonable progress than would be achieved by implementing BART.



RH SIP implications (cont.)

- Due to the December 2008 CAIR remand without vacatur, and Connecticut's exclusion from the August 2011 final Cross-State Air Pollution Rule, Connecticut was on track to replace RCOSA section 22a-174-22c with RCOSA section 22a-174-22d to maintain the required NOx reductions, at EPA's suggestion.
- EPA's March 26, 2012 proposed approval of Connecticut's RH SIP explains the history and interrelationship of both RCOSA section 22a-174-22c (CAIR) and RCOSA section 22a-174-22d in the discussions about Connecticut's alternative BART program for NOx.



RH SIP implications (cont.)

- On April 25, 2012, the Sierra Club submitted comments on EPA's proposed approval of Connecticut's RH SIP.
- The Sierra Club objects to Connecticut's alternative BART programs and calls on EPA to require that Connecticut conduct source-specific BART analyses for each BART-eligible unit.



RH SIP implications (cont.)

- It is unknown if the *EME Homer* decision will impact EPA's March 26, 2012 proposed approval of Connecticut's RH SIP.
- Pursuant to a consent decree, EPA was required to either fully approve Connecticut's RH SIP or promulgate a FIP by September 14, 2012 (that's tomorrow)!
- The litigants recently agreed to a 60-day extension of the September 14, 2012 deadline.



Other CT SIP References

- EPA has yet to make a final rulemaking on the following SIPs that include CAIR reductions:
 - Ozone attainment demonstration submitted in 2008
 - PM 2.5 attainment demonstration submitted in 2008
 - PM 2.5 redesignation/maintenance submitted in 2012
- Order of Action:
 - RH SIP approval or FIP by November 13, 2012 (or later if an additional extension is granted)
 - Final rulemaking on PM 2.5 infrastructure SIP by September 30, 2012
 - Final action anticipated within 4-6 months on 1997 annual and 2006 24-hour PM 2.5 redesignation/maintenance SIP





Questions?

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