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Re: Public Commits Submitted for the Proposed Title V Operating Permit Renewal for SP Newsprint

Northwest Environmental Defense Center (NEDC) respectfully submits the following comments for the Proposed Title V Operating Permit Renewal for SP Newsprint. NEDC requests a response to comments, as well as notification when the permit renewal is approved.

Introduction

DEQ is proposing to allow SP Newsprint to increase its emissions of VOCs at the facility without complying with New Source Review/Prevention of Significant Deterioration (NSR/PSD) requirements. The increased emissions at this facility that will result from operational modifications trigger NSR/PSD. NEDC has serious concerns with DEQ's implementation of the federal Clean Air Act (CAA) NSR requirements, and as highlighted by this case, the way in which DEQ allows for the use of "unassigned emissions," without properly considering the CAA's baseline and increment requirements. Even pursuant to DEQ's current regulations, however, DEQ's use of unassigned emissions in this case is still improper. Nowhere in OAR 340-222-0045, "Unassigned Emissions," does it state that by using the unassigned emissions it precludes any form of PSD or NSR review when the SER threshold has been surpassed.

Clean Air Act § 160

The purposes of the PSD program include: protection human health and welfare from the adverse effect of reasonably anticipated air pollutants; preserve, protect and enhance the air quality in national parks and wilderness areas; to assure that increased air pollution will not interfere with the implementation plan to prevent significant deterioration of air quality; and, to assure that any decision to permit an increase in air pollution is made only after careful evaluation of all the consequences of such a decision. CAA § 160 (1)-(5).

New Source Review (NSR) and Prevention of Significant Deterioration (PSD)

NEDC has serious concerns about DEQ's approach to NSR. In Oregon, the baseline emissions used to determine if a major source will fall under the modification requirement for NSR lingers upon a 1978 potential to emit (PTE). However, EPA has since changed the regulations and definitions for "baseline emissions" to "baseline actual emissions." Oregon's approach is problematic with respect to the baseline actual emissions used in NSR as applied to major modifications.

If an existing source undergoes modifications, such that new or increased pollution results, NSR will be triggered. A major modification is defined as "any physical change in or change in the method of operation of a major stationary source that would result in: (1) A significant emissions increase of a regulated NSR pollutant (as defined in paragraph (a)(1)(xxxvii) of this section); and (2) A significant net emissions increase of that pollutant from the major stationary source." 40 CFR § 51.165 (a)(1)(v)(A).

While there are exemptions for specific instances, such as routine, repair and replacement, DEQ does not have the authority to exempt an entire class of major sources. By failing to change its baselines emissions definition and calculation, DEQ is essentially exempting a majority of existing major sources that undergo modifications, from undergoing NSR as per the federal regulations.

Moreover, in this case, DEQ appears to be ignoring NSR requirements pursuant to its regulations that allow for the use of "unassigned emissions." The SP Newsprint renewal permit seeks additional emission limits for VOCs. The proposed increase for VOCs is 80 tons of additional pollutants, which is 40 tons above the SER threshold level of 40 tons. NEDC acknowledges that SP Newsprint can utilize unassigned emissions from its previous permit term according to OAR 340-222-0045 to surpass the SER threshold (though NEDC objects that these provisions are not consistent with the CAA), but, nowhere in the rules does it state that utilizing unassigned emissions should preclude any form of PSD or NSR review.

In OAR 340-222-0041, the SIP provisions for sources with the potential to emit greater than the SER, specifically provides requirements for emissions in attainment areas,

(3) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must:

(C) If located within an attainment, maintenance, or unclassifiable area, the applicant must demonstrate compliance with the NAAQS and PSD increments by conducting an air quality analysis in accordance with OAR 340-225-0050(1) and (2) and 340-225-0060.

Yet in the permit review, DEQ stated, "there will be no net impact on the environment and further analysis is not needed." NEDC has been unable to locate language in the Oregon Administrative Rules that states that if there is no net impact on the environment no further analysis is required. Indeed, the above cited provision requires demonstration of compliance with the NAAQS and PSD increments.

The NSR requirements include for New Source Review, there are certain requirements for PSD in Attainment Areas when there is a major modification that would result in an increase in emissions, including,

Proposed new federal major sources or major modifications at federal major sources locating in areas designated attainment or unclassifiable must meet the following requirements:

(1) Best Available Control Technology (BACT). The owner or operator of the proposed major source or major modification must apply BACT for each pollutant emitted at a SER over the netting basis.

a) For a major modification, the requirement for BACT applies only to:

(A) Each new emissions unit that emits the pollutant in question and was installed since the baseline period or the most recent New Source Review construction approval for that pollutant and

(B) Each modified emissions unit that increases the actual emissions of the pollutant in question above the netting basis.

... 2) Air Quality Analysis: The owner or operator of a source subject to this rule must provide an analysis of the air quality impacts for the proposed source or modification in accordance with OAR 340-225-0050 through 340-225-0070.

(3) Air Quality Monitoring: The owner or operator of a source subject to this rule must conduct ambient air quality monitoring in accordance with the requirements in OAR 340-225-0050.

OAR 240-224-0070. None of these provisions have been performed in order to adhere to the PSD requirements for increasing the PSEL limits above the SER threshold. Again, NEDC notes that nowhere in the rules for NSR or PSD do the rules exempt the review process just because unassigned emissions are being utilized to increase emissions over the SER threshold.

Procedural Requirements of 340-225-0030

The Newsprint facility is requesting to emit VOCs greater than the SER threshold, yet no PSD procedural requirements have been satisfied.

The procedural requirements of Div 225 state that an owner of a facility must submit all information necessary to perform any analysis, especially for emission limits that would exceed the SER threshold and require PSD review. The DEQ has not mandated that the owner of Newsprint perform the PSD review, a violation of Div 222, which in turn would violate Div 225.

The requirements include:

(1) Emissions data for all existing and proposed emission points from the source or modification. This data must represent maximum emissions for the following averaging times by pollutant:

- (2) Stack parameter data (height above ground, exit diameter, exit velocity, and exit temperature data for all existing and proposed emission points from the source or modification;
- (3) An analysis of the air quality and visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and
- (4) An analysis of the air quality and visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, that has occurred since January 1, 1978, in the area the source or modification would significantly affect.

NEDC is concerned that the DEQ has not required the Newsprint facility to perform any of these tasks, particularly the PSD review of analysis of air quality to the extent that it includes “all commercial, residential, industrial, and other source emission growth, that has occurred since January 1, 1978, in the area the source or modification would significantly affect.”

Alternative Solution

If the DEQ and Newsprint prefer not to perform the PSD review requirements, it must be noted that OAR 340-202-0220 mandates:

No concentration of a pollutant may exceed:

- (1) The concentration permitted under the national secondary ambient air quality standard; or
- (2) The concentration permitted under the national primary ambient air quality standard; or
- (3) The concentration permitted under the state ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

NEDC would like to point out that no concentrations of pollutants will be allowed to exceed the SER limit, hence, no exceedance of air quality standards, unless the PSD review is performed. Until the PSD review is performed, the DEQ should not allow the facility to increase the emissions above the SER threshold.

NEDC also reminds the DEQ that § 113(a)(5) of the Clean Air Act states, in part:

Whenever...the administrator finds a state is not acting in compliance with any requirements or prohibitions of the chapter relating to ... modification of existing sources, the administrator may issue an order prohibiting the modification of any source.

The EPA will have the authority to deny this permit renewal until the adequate procedures are followed.

Additional Comments and Questions

Why is Condition 105.c unenforceable?

Does the Oregon SIP require an Emissions Banking Document that provides the specific information regarding unassigned emissions that will be utilized in upcoming permit renewals? How does this permitting action take into account this new federal requirement?

With respect to this particular permitting action, is Oregon's method of calculating baseline as stringent as that mandated by the new federal NSR/PSD rules?

What were the highest VOC emissions from SP Newsprint's facility during any 12-month period within the last ten years?

Does the increase in SP Newsprint's VOC emissions over that level (the highest during any 12-month period within the last 10 years) exceed 100 tons/year?

Were the facility not to have any "unused emissions", would this modification be subject to a PSD review?

Conclusion

NEDC urges the DEQ and SP Newsprint to adhere to the requirements of the Oregon SIP provisions for Prevention of Significant Deterioration and New Source Review. Either this matter has been overlooked, which we then expect the DEQ to adhere to the mandates and require the facility to perform the necessary procedures to ensure the facility's increases emissions above the SER threshold will not affect the air quality of the surrounding regions, or, DEQ and the facility will evidence that they are ignoring the requirements of the NSR or PSD review.

NEDC respectfully requests the permit renewal be stayed for the moment, until a thorough and complete application is submitted, which would include the full requirements of the PSD procedures.

Sincerely,

Jared Kahn
NEDC Project Coordinator