

CLEAN AIR ACT DEVELOPMENTS 2004 A Federal Perspective

11th Annual New England Energy Conference and
Exposition

May 18, 2004

Kenneth R. Meade

Hale and Dorr LLP

ken.meade@haledorr.com

Federal Programs/Initiatives

- > 8-Hour Ozone and PM_{2.5} Standards – classification and implementation
- > New Source Review (PSD and NNSR)
- > Boiler MACT
- > Climate Change
- > Miscellaneous
 - IAQR
 - Monitoring/Enforcement

8-Hour Ozone Standard in New England – 4/15/04 Final Rule

- > Nonattainment counties in every state except VT
- > Most are “moderate” (except ME)
 - SIP Due Date: June 2007
 - Attainment date: June 2010
 - RFP: 15% from baseline by 2008
- > Where will the reductions come from?
 - IAQR
 - Mobile sources
 - Nonroad Diesel Rule

Region I States – Nonattainment Designations

State	Counties	Nonattainment Classification
Connecticut	All counties	Moderate
Maine	Cumberland (P), Sagadahoc, York (P), Androscoggin (P), Knox (P), Lincoln (P), Hancock (P), Waldo (P)	Marginal/basic
Massachusetts	All counties	Moderate
New Hampshire	Hillsborough (P), Merrimack (P), Rockingham (P), Strafford (P)	Moderate
Rhode Island	All counties	Moderate

Particulate Matter Standard

- > New PM_{2.5} Standard
 - Survived legal challenge
- > Recommended Classifications
 - VT, RI and ME: Attainment
 - MA: Attainment/unclassifiable – better data
 - CT: EPA issue re: New Haven station data
 - NH: Attainment – issue re: Boston CMSA
- > EPA Final Rule: Dec. 31, 2004
 - 3 years to submit SIPs

New Source Review

- > PSD and Nonattainment New Source Review
 - PSD: EPA rules unless SIP-approved state
 - NNSR: SIP provisions
- > Key Issues
 - Permit Issuing Authority
 - Enforcement/oversight
- > Federal reforms
 - Litigation

Boiler MACT

- > Final Rule signed 2/26/2004
- > Industrial boilers, institutional/commercial boilers, process heaters
- > Covered units at “major source”
- > Subcategories
 - Fuel type: Solid, liquid, gas
 - Size and use
 - > 10mm Btu, < 10mm Btu, limited use (<10% capacity factor)

Boiler MACT

- > Existing Units
 - Emission standards for large solid fuel and limited use solid fuel
 - No standards for existing small solid fuel or **ANY** liquid or gas units
- > New Units: standards for almost all subcategories
- > Testing and monitoring requirements
- > Initial notification requirements only for existing large and limited use liquid and gas units, and new small liquid units not burning residual oil
- > No requirements: Existing small units (any fuel) and new small gas units

Climate Change

> Where will pressure come from?

- Federal legislation
- Federal regulations
- Regional efforts
- State-by-state

> Market opportunities?

- Chicago climate exchange
- Kyoto countries

Miscellaneous

- > Interstate Air Quality Rule
 - Air quality benefits for NE
 - Section 126 Process
- > Monitoring/reporting
 - Title V sources – EPA rulemaking
- > Enforcement
 - *State of Alaska* case
 - EPA oversight of state programs

Hale and Dorr LLP