



# Department of Environmental Protection

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## September 10, 2015 EBC Air Quality Program talking points

### PSD Permitting Changes & Their Impact on Major Source Project Design & Development

#### 1. transition that MassDEP went through taking back delegation of the PSD Program from the EPA

- Initial delegation, by EPA letter dated June 30, 1982
- Exercised discretion to decline delegation of NSR-reform amendments effective March 3, 2003, by MassDEP letter dated February 27, EPA FR notice June 17
- Agreement for new delegation of GHG-tailored amendments, fully executed April 11, 2011

#### 2. experience with the MassDEP's implementation

- During initial direct EPA and MassDEP delegation period, 23 projects permitted including seven incinerators, 12 electric power and four industrial listed in FR notice (MassDEP records suggest actually 28 projects including nine incinerators, 13 electric and six industrial). MassDEP issued some combined Plan Approval/PSD permits, and some "detachable" PSD permits
- During undelegated period,
  - ✓ Enforcement of issued EPA and MassDEP permits reverted to EPA
  - ✓ New projects often relied on common analyses and negotiations; other collaboration between applicants, MassDEP and EPA: but arms-length, uncoupled administrative process and distinct approval criteria
  - ✓ Eight projects permitted in parallel by EPA (PSD) and MassDEP (7.02): five electric power, two university and one industrial
- Under current delegation,
  - ✓ EPA completed in-progress permit for electric power project
  - ✓ Administration and enforcement of all issued permits given to MassDEP
  - ✓ One electric power project permitted by MassDEP
  - ✓ Several permit modifications issued or under review for electric power changes-in-method-of-operation or permit condition changes with no physical or operational change of facility.
  - ✓ Several new facility and new unit projects in various stages of review for university, institutional and electric power

### 3. major permitting issues that the PSD rules present for the MassDEP and applicants

- New facilities
  - ✓ MEPA or EFSB process previews PSD and 7.02 AQ scope
- New units, physical changes at existing units, operational changes at existing units
  - ✓ PSD applicability analysis for all projects at Title V OP facilities
- Permit changes with or without physical or operation changes
  - ✓ Consider public notice and comment where change concerns PSD-permitted unit
- Environmental justice
  - ✓ Commonwealth concept limited to “EJ areas” and vicinities, emissions tonnage thresholds
  - ✓ federal EJ concept related to overburdened communities, invoked for all PSD applications
- Greenhouse gas emissions and climate mitigation
  - ✓ BACT for project under PSD, other aspects under MEPA and GWSA not directly addressed by PSD or 7.02 regulations or procedures

### 4. MassDEP expectations for PSD, minor NSR permit applications

- Application checklists
  - ✓ Separate and distinct application and review record for PSD action
  - ✓ 1990 EPA draft NSR workshop manual (“puzzle book”)
  - ✓ EPA R4 checklist for PSD permit applications
- Applicability analysis
  - ✓ For all projects at Title V OP facilities
- BACT analysis
  - ✓ Minor NSR allows top-down BACT per PSD, but may take streamlined track
  - ✓ PSD review must use top-down; no *de minimis* emission units
  - ✓ Top-down across-the-board defensible for applicant and MassDEP
- Modeling
  - ✓ Minor NSR allows MassDEP to set protocol
  - ✓ PSD review must use EPA Guideline and follow EPA guidance
- Timelines
  - ✓ Minor NSR per 310 CMR 4
  - ✓ PSD per federal regulations
  - ✓ Best scenario decouples PSD application completeness determination from CMR timelines, delays complete PSD application date

### 5. how the MassDEP plans to implement the PSD rules going forward

- per the Clean Air Act, regulations and delegation agreement
- as EPA’s agent, until such time as we might attempt a SIP PSD regulation

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